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Desert, Equality and Chance in Economic Justice

by

Thomas D. Enders ©

A thesis submitted to the Faculty of Graduate Studies and Research in partial fulfillment of the requirements for the degree of Doctor of Philosophy.

Department of Political Science

Edmonton, Alberta
Spring 1996

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ISBN 0-612-10584-9

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Abstract

It is time to take another look at "unearned income". Not only are people continuing to profit and lose from real estate speculation, lotteries and gifts and inheritances, large numbers are participating in new forms of taking a chance using a variety of instruments in financial markets.

To assess the justice and morality of receipt of unearned income, it is advisable to take a step back in order to decide if there are reasons to give special consideration to earned income or economic desert. I argue that a case should be made for desert. Desert is not the only major basis of entitlement, however; need is another. May people also be entitled through chance?

I maintain that chance is an important factor to evaluate with respect to both earned and unearned income. Natural chance influences our abilities, social circumstances, opportunities and outcomes of our actions, but it does not disentitle. Artificial or chosen chance - gambling in a large sense - can entitle _if_ certain conditions are met. I examine investing, gambling, speculating, hedging and insuring in financial markets in part to consider what some of those conditions may be.

I also examine receipt of gifts and inheritances as other instances of unearned income, and as a matter of what I call one-party luck.

I conclude that recipients of income do not always need

to earn it and that chance is often not the decisive factor. Legitimate concerns with inequality provide reason to limit how much wealth we ought to be able to deserve, or receive from any source. Other moral concerns enter at various points.

Acknowledgements

I wish to thank the members of the examining committee for their thoughtful questions and remarks. I extend special thanks to Dr. Tom Pocklington, my thesis supervisor, for years of assistance and insightful observations, and for his respect of my ability to learn by making mistakes. I also want to make special mention of the help I received from Professor John Delehanty who read most of an earlier draft of this document and answered many questions about economic theory. I thank as well Jean-Marc Gagnon, Dimitri Panopalis and Michael Bradley for reading many pages and offering their valuable comments. Malinda Smith and Stewart Sutley are notable among the other persons with whom I raised questions and discussed related issues. I appreciate all of the contributions; I assume responsibility for the uses to which I did and did not put them.

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Chapter One: Introduction

In recent centuries, "unearned income" has come under attack. Although I do not recall having seen any careful efforts to define this term, the various contexts in which I have encountered it suggest concerns with two kinds of phenomena. One is income or wealth which has indeed been earned by someone but which is claimed by another person for whom it is "unearned", such as an "idle" capitalist or absentee landlord. The other is chance income or wealth which no-one is said to have earned; the claimant receives a lucky windfall. Income or wealth of the second form has been exemplified by inheritances, returns on land speculation, and winnings from gambling. True, in each of these cases the wealth transferred can be considered to have been earned by some party before it has been passed on. There is said to be no-one, the recipient or anyone else, however, who has done anything to entitle him to receive it from the person who transfers it. Gains of both kinds have been considered by many persons, especially socialists and work-ethic proponents, to be unjust.

In recent decades in the capitalist world, income and wealth which has, or is at least thought to have, a large chance component has become of increasing importance. This is not simply due to a greater number of related activities and higher stakes in them - for example, more lotteries with bigger prizes or richer real estate deals; it is also due to the introduction of new ways of profiting by taking a chance. There is now organized trading of stock options, interest rate swaps, and a variety of "derivatives". Futures trading, which involves betting now on prices of goods in the future, has expanded to include not just basic agricultural products and precious metals, but also stock exchange indexes, interest rates, and even currency itself. When the indirect effects in addition to the direct ones are considered, it becomes clear that such activities have a significant impact upon virtually everyone who lives in a "market society". In addition to questions about the effects on productivity and the general welfare, many questions arise concerning the justice of the rewards received and denied; other questions arise about the morality of using the various practices.

Early on in my undertaking to evaluate the merit of arguments in opposition to forms of unearned income, I became increasingly impressed by the importance of also evaluating the arguments for earned or deserved income, not only because opposition to unearned income might rest upon them, but also because economic desert is a notion that has been summarily dismissed in many recent treatments of economic justice. I believe it ought not to be. In addition, certain key factors in evaluating unearned income turn out to be key factors in deciding what to say about the justice of earned income. Chance and equality are the two main ones. So what began as a study of unearned income (and chance) became a study of both earned income (wealth which someone has done something to earn, his actions forming the basis of his entitlement to it), and unearned income. Conclusions reached about economic desert and related matters, nevertheless, are of primary importance in establishing a basis on which to evaluate forms of unearned income.

A number of hugely intriguing questions arise. Does an advocate of economic desert have to maintain that it is the only basis of entitlement in economic justice? If we grant that need is an entitlement basis, does it take priority, and if so, would this leave any opportunity for people to make desert claims? Why should economic desert be defended, and what are its incomponents? Should considerations of equality limit the role of desert as well as the size of unearned income? Is it the case that unearned income is objectionable, if it is, because chance disentitles? If chance disentitles, do arguments for economic desert have to fail? Is it not true that which talents people have and what they decide to do with them are matters of chance? Or is it the case that unearned income is objectionable only or most importantly because it is not earned?

In the pages which follow I will argue for the importance of recognizing economic desert claims, but also the acceptability of other bases of entitlements when they do not conflict with certain moral requirements. I will argue that some needs claims, including claims for assistance to be able to be deserving are valid and should be met, that inequality should not be too great, which it is when but not only when it impedes rewarding of desert, and that the mere fact of being lucky does not disentitle.

To elaborate somewhat, I will emphasize that it is generally important for people to provide for themselves, and to receive the value of what is theirs in exchanges as well as what they deserve. This means receiving equivalent for equivalent, and in the case of joint endeavours, the just proportion or share they have contributed to the creation of a useful product. It is unjust to take from others what belongs to them, and to give to persons who are not entitled to what they receive.[1] My conception of economic justice also recognizes that justice is not only a matter for those who work and sell; it is also vitally important for those who buy and consume. People invest and manifest themselves in their work, in what they produce; they also sustain and realize their humanity in what they use and in the purposes for which they use what they use. Consequently, just economic arrangements require the buyer to pay the value of what a worker has produced, whereas the value of a good or service is determined by the usefulness of the product for its user. This requirement provides the standards for equivalence and proportionality.

---

[1] I include both clauses here to indicate the double-sided nature of injustice. It is possible to take from persons what they owe to others without the persons, or community, owed being the recipients. I am not using the word "entitled" here as a synonym for "deserved".

I do not go so far as to claim that desert is the only basis of entitlement or that we always have a right to be deserving. I do maintain, however, that we do not have to deserve to be deserving. Natural chance in who we are, where and when, and in the success of our efforts, is compatible with desert. Use of artificial or chosen chance, on the other hand, sometimes violates desert; it is also morally unjustified if our use of it constitutes a breach of our responsibilities to others. We can be entitled to receive unearned income, then, which is a matter of chance and something we did not earn or earn in every way conceivable, providing that our receipt of it does not cause undue harm to others.

The reader should be aware that I develop my discussion in a moral cognitivist framework. I believe that there are right and wrong answers to moral questions, including questions of economic justice. I do not think that moral claims are emotional utterances without truth value or are subjective in other ways, nor are they mere conventions or advantageous constructions of self-interested contractors or bargainers. I am of the view that moral requirements concerning people are grounded in the very nature of human beings, and that morally right actions are intimately connected with good states of being for people. Wrong actions are appropriately associated with what causes harm to people and their good states. Persons in their best states are physically healthy, free of mental illness, have developed rational capacities, have a sense of self-worth and dignity, are morally virtuous, and function well socially. (This list is not intended to be complete.) Moral knowledge, i.e. knowledge of what is required, permitted and forbidden, is obtained by the use of reason in conjunction with observation and experience. (Our very notions of moral responsiblity and accountability depend on our ability to use reason to know what we should and should not do.) Some of the arguments I will make will not only be based on these premises, I believe they will also offer support for them. But rather than argue for them, I will concentrate my efforts on matters with special relevance for assessing claims to earned and unearned income, given these premises.

I will maintain that economic activity in mass society takes place basically in two domains: the private one in which personal exchanges between persons who know one another are made for the purposes of the parties participating; and the public domain in which social institutions enable persons to interact in the impersonal market for private purposes and contribute to the common good. This (but not the economic system in all its manifestations) is basically as it should be. People can best fulfill their potentiality as human beings by engaging in private or individual as well as social activity. This should not cause us to overlook the importance of collective action on behalf of private lives.

The case for state oversight if not "intervention" is weakest in the private domain. It is stronger in the impersonal market, which is only an area of economic freedom in limited senses. The market is a socially created structure whose purpose is to protect or create certain freedoms, respond to needs and wants, and ensure that justice is done. The question is not whether moral perspectives will be acted upon but rather which ones. Whereas in largely private transactions the individuals involved may be able to make decisions (right or wrong ones, I would insist), in the interdependent impersonal market, the collective responsibility for making choices can only be assumed or neglected. Which harms will it tolerate? Which harms will it discourage or forbid? I tend to favour democratic decision-making procedures, but a full-fledged defense of that position would be yet another undertaking, and one which I only take up in part here. It is important to note that state action can be more or less obtrusive, and government actions can be aimed at particular transactions or aggregations of transactions or activities of a general kind.

The ideas which I humbly submit for consideration are intended to apply universally, with application to both domestic economies and international activities. Just how international or global decisions ought to be made, with what degree of respect for local autonomy, is another one of those important matters which deserve more attention than I can provide here. I can confidently assert, nevertheless, that individuals, organizations and countries are all responsible for at least the choices they make, and the obligations they assume by taking actions which limit the options of other people and affect their current well-being as well as future prospects.

I offer my perspective on economic justice for consideration both of individuals making exchanges and participating in distributive decisions, and those making decisions at institutional levels. The purpose of attempts at philosophical explorations such as this one is not simply to sketch out very general and abstract principles which can be applied in numerous ways, if they are accepted at all; the purpose is to provide guiding principles which provide insight and direction for those deciding how to apply them. Very general principles can provide the groundwork for more specific principles to be worked out or articulated later; if that is not the case, then they may well be too timid. Moral principles, in other words, should be specific enough to be seen to be relevant to practices people actually engage in, and yet general enough to be useful for a range of activities that are essentially the same in different settings and at different times. It remains for those making concrete decisions to decide on particulars, and when necessary, the least bad choices when injustice cannot be avoided. In those cases, however, it remains important to appreciate that wrongs exist which people ought to work to minimize, and if possible, eliminate.

These introductory remarks ought to serve to indicate not only the arguments that I will be making, but also the enormity of the challenge I am taking up. Consideration of the topic of unearned income requires study of related topics such as earned income or desert, equality and chance and a large number of other matters which I will summarize by chapter.

I do not wish to claim that my arguments are unassailable. I do wish to emphasize that the time to carry on this undertaking is here. We are in a dense forest, a complex interdependent eco-system. I am standing back in order to see how its various features fit together. From time to time I am standing so far back that I can see some trees only in outline. Other persons are studying particular stands of trees and know them much more intimately than I. I want to suggest which subject matters of theirs fit into the scene on which I am focusing, and sometimes, which ones do not.

Of course, rather than studying eco-systems, I am considering aspects of economic systems - more particularly, the economic justice of earned and unearned income. The scene is changing. This makes it all the more incumbent upon us to see clearly where we are going and where we should try to go. We cannot stand still. We cannot wait until we have a completely satisfactory account before making decisions because people are acting now. I propose a plan. I welcome the prospects of proposals for revisions both from those doing detailed groundwork and those also interested in taking a larger view.

One of the topics I do not pursue is the relative significance of the endeavor itself. How important do I consider economic justice to be? I do not consider it to be the most important topic facing either individuals or communities. It largely concerns people's relationship with things, and not human relations or the intellectual, emotional, mental or spiritual life. Yet, this is only partially true. The way we treat others in our "economic" dealings with them is very much a matter of using or abusing others and treating or failing to treat them with respect as people with their own rational capacity, goals, hopes, accomplishments, disappointments, sufferings and dignity. Economic wealth is also a vitally important means to many of the good things in life, including health, education, experiences and enjoyments, and too often, a means of control over others and source of influence or power. Want and economic deprivation, especially when not destitution, can produce their own benefits, but this observation only provides a partial response to the last observation; it provides no response to the one before it (concerning abusing or respecting others). In short, then, I would say that selfish or "self-interested" pursuit of economic "advantage" is not the only motivation that deserves much attention; pursuit of economic justice is a much broader and nobler pursuit.

I begin this study in chapter two with a discussion of a moral approach which when applied to matters of economic distribution essentially treats desert claims as irrelevant. This is not surprising because utilitarianism rejects notions of natural rights (and therefore natural rights to economic desert) and promotes instead "utility", or happiness or wealth maximization. I present the case that it is difficult to select one standard or "good" as the goal of moral action. I also question any suggestion that utilitarianism has a monopoloy on usefulness as a key component of moral requirements. I argue that utilitarian or consequentialist approaches fail to provide sufficient support for individual rights. Moral arguments which appeal primarily to incentives for justification of income differentials are also deficient.

In chapter three, I argue that earned or deserved entitlements are not the only entitlements of economic justice. There are objectively discernable needs which communities ought to work to provide under certain conditions. Members of communities may also be entitled to receive benefits which go beyond meeting basic needs. All the same, not all needs should be met for people; and meeting of needs only constitutes a part of economic justice.

Chapter four is a defense of economic desert. It begins with a defense of earned entitlements for individual persons in a social setting, and then goes on to examine the various components of desert. These include: effort, danger, responsibility, quantity, quality of useful labour, and marginal usefulness and productivity.

I argue in chapter five that considerations of equality ought to be used to limit inequalities of income and wealth, whether deserved or not deserved. This is shown by looking at arguments for equality of opportunity, and the justifications of impersonal markets. Rather than argue that earned income should be confiscated, however, I argue that it is better to limit accumulation of wealth in the first place, both on pragmatic and moral grounds. I conclude this chapter by explaining why I do not embrace a more complete kind of equality, equality of condition, even if it could be realized by organizing performance of tasks so that everyone would be equally deserving.

In chapter six I return to questions raised in the context of equality of opportunity about the role of luck in being deserving. I work to establish the position that people can make free choices for which they deserve economic rewards, but who, apart from this claim, are entitled to the equivalent in return for their labour as agents who are whole persons (and not just rational choosers). They are made up of elements which they are and are not responsible for creating, but which are important parts of indivisible selves, nonetheless. What about luck in situations and the outcomes of our endeavors, then? The key consideration is whether there are other persons or institutions which are responsible for those outcomes and circumstances. New considerations that do not apply to "natural chance" come into play when people or institutions purposively call upon mechanisms of chance to make allocative decisions for them. Natural chance can be entitling; resort to "artificial" or chosen chance - an important matter for investigation in various forms of unearned income - is conditionally justifiable.

Inheritance, long a concern of persons opposed to what they see as excesses of unearned income, is the subject matter of chapter seven. I examine common arguments in favour of unlimited rights to inherit or bequeath which concern the need for capital accumulation, encouragement of family feelings, and property rights. I conclude that neither rights of the dead, nor rights of living inheritors are strong enough to outweigh concerns about inequality of wealth and opportunity, and other matters addressed in chapter five. This is a matter of what I call "one-party luck", and not neutral or entitling natural chance. Inheritance is not a legitimate target simply because it is unearned.

I complete this project by looking at activities in the stock market and related financial markets. They raise a range of fascinating questions which help to fill in the picture. Having looked at these activities less than other matters I reach more tentative conclusions. I argue that there is a return on investments that can be considered deserved. Gambling and speculation (which are not the same thing) are undesirable both when they distort deserved returns and when they are used to take irresponsible risks with repercussions going beyond the parties directly involved in transactions in question. Arguments for the role of certain speculative activities in reducing or managing risk or the effects of chance and providing insurance have some merit, but raise questions about the efficiency of such practices and the justice of the outcomes in certain cases. There is also good reason to be concerned about promotion of a mentality that it is better to outwit than to settle for what is just.

In order to decide whether the fact that people have holdings of unearned income or wealth is just or unjust we should examine entitlements of need, arguments for earned income and equality, and more. Having examined these, and two areas of activity in which unearned income is a concern, I conclude that desert should not be violated by distributions, nor should other moral requirements be ignored when actions providing someone with unearned income are performed. The recipient does not have to have earned the good in question, however. Chance is often not the crucial element either.

Chapter Two: The Failings of Utilitarianism

I will be arguing for a natural, nonconsequentialist right to receive what one deserves. When something is earned or deserved, the person who has earned it is entitled to it; other persons who have not done anything to earn it (for whom it is in this way unearned) are not entitled to it. This might not seem controversial. Many people in the academic and non-academic world think, however, that wealth generally ought to be distributed in such a way as to maximize "utility", happiness or wealth itself. They see no need to render separate judgments of who ought to receive what. They maintain that distributions which increase or maximize happiness, productivity or wealth are just - or at least not unjust. I believe that it is important to show at the start why this approach and its neglect of desert is flawed.

A utilitarian or consequentialist philosophy maintains that we should try to produce the most good consequences we can or, to put it another way, as much as possible of a valued thing, whether happiness, wealth, satisfaction of preferences or some other "good". Utilitarianism is very appealing for two main reasons. First, it is in tune with a secular, rationalist, scientific age (see, e.g. Plant, pp. 139-40). It appears to be very empirical. Let us use our reason and senses to tell us what we want to achieve, and then let us be open-minded in assessing what works and does not work to provide it for us. Second, it often presents some "good" or goal that people can agree is desirable. We all want happiness or wealth or at least satisfaction of our preferences, or so it would appear. But not only are there problems with such "goods" as the criterion or criteria of the ends of social life, the philosophy collides with another properly valued aspect of modern life, and that is respect for the individual and what he deserves, i.e. some of his natural rights.

I.1 Consequentialism vs. nonconsequentialism. Before beginning a systematic analysis, a quick comment on word usage. I will use the words "utilitarianism" and "consequentialism" interchangeably, although not all writers do. Posner, for example, equates utilitarianism with the philosophy which seeks to maximize happiness, i.e. hedonistic utilitarianism, and does not consider a wealth-maximizing consequentialism to be utilitarian. I will specify which kind of consequence is to be promoted when I do not think it clear enough from the context, by referring to wealth-maximizing utilitarianism, for example.

It is important to understand how a consequentialist perspective differs from an objective moral outlook which is nonconsequentialist. A consequentialist theory has to separate consequences from actions. If certain things always happen when someone does a certain kind of thing, then they have to be considered an essential part if not all of the action and not a consequence of it. For example, if murdering someone always results in a person's death, death is not a consequence of killing. On the other hand, unhappiness, fear, and hardship may accompany murder most of the time, but since they need not, they are (frequent) accompanying consequences only. To speak of consequences, then, is also to evaluate actions according to some criteria other than characteristics of the action.

Nonconsequentialist moral objectivists or realists will speak of actions as right or wrong "in themselves". Although some people may see this is as a kind of mysticism (cf. Rachels, Elements of Moral Philosophy, p. 111) it need not be "mysterious". Murdering someone can be seen to be wrong for what it does to the person murdered - it could be wrong "in itself" rather than because of the new state of affairs brought about once you have considered all parties which are affected, and which could vary from murder to murder. Put this way, I think it becomes clearer (and will become even clearer later on) that the real difference is between an outlook that evaluates actions in a very immediate way and another which takes a much broader perspective, and not in how they conceptualize actions.

We should not think, however, that nonconsequentialists would say that it is wrong to consider consequences (although some of what may be described as "consequences" could also be described as separate actions - e.g. causing a riot by assassinating someone or having a negative effect on someone's reputation by telling lies about him). They could even require it, but would differ in possibly concluding that the right thing to do is not to produce the best balance of consequences if it involves doing something forbidden. (I say "possibly" because, as I shall explain below, nonconsequentialists do not have to say that all of their evaluations of actions have to be followed, "whatever the consequences".)[1]

I.2 **Consequentialism's two main components.** As has been hinted at already, there are two main components to any consequentialist approach. One is the selection of the kind of consequences with which to be concerned as the goal of action or as "the good". The other is the consequence-maximizing feature of any consequentialist outlook without which it would not be distinctively consequentialist. It is only the combination of the two that creates a consequentialist theory.

The selection of the kind of consequences presents us with the first two problems with consequentialist approaches. One is the difficulty of selecting adequate criteria; the other is the too often made assumption that only utilitarianism or consequentialism values in any significant kind of way what it selects.

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[1] Nonconsequentialists might also evaluate consequences as matters of "imperfect obligation", that is, they may conclude that producing good consequences or minimizing bad ones is something they ought to contribute to some, but not all of the time.

The main candidates for "consequences" or good things to promote are happiness or pleasure; welfare, well-being or wealth; and satisfaction of preferences.

I.3 **Happiness as "the good".** As happy as the thought of producing or having happiness may make us, the selection of it as the criterion runs into frequently and properly observed difficulties. We do not want to be happy without having good reason to be. So if we contemplate being satisfied by pleasurable-sensation-giving drugs, or electrode stimulation of the pleasure centres of the brain (cf. Smart, "Outline", pp. 18-22), or an "experience machine" which would give us the illusion of experiencing things which would give us happiness (Nozick, pp. 42-45), or simply happiness from misinformation, we usually think that there is something crucial missing and our priorities backwards. There are states of affairs which we want, and they are ones about which we expect to be happy, but they are not valuable because they make us happy. The reverse is true; they make us happy because we see that there is something good about them (Rachels, Elements, p. 104). Similarly, there are some things about which we realize we should not be happy, and whatever happiness we have, or think we have, because of them should not count, e.g. happiness from rape, humiliation, torture, and spreading of malicious lies. Sure enough, we want people to be happy, but that usually means actually having the right, or at least not the wrong things to be happy about. So happiness is not "the" standard or criterion of consequences.

A hedonistic utilitarian might counter that he does not value all pleasure or happiness but only good pleasures or higher quality pleasures.[2] This can be a legitimate move, but may suggest that something other than happiness is actually valued, especially if "happiness" is broadly defined; if this is not the case, though, the objection of the previous paragraph still applies to it.

I.4 **Economic Wealth as "the good".** Some object to the selection of happiness or pleasure because its selection on a social level could justify too much intervention by those in control of social levers, especially government. People do not always choose to do what makes them "really" happy or as happy as they could be (at least in the eyes of the ruling class). Consequently, some, such as Posner (p. Economics of Justice, pp. 65-66), argue that social institutions should promote economic wealth because it is truly less subjective or contentious and something everyone wants and needs in order to pursue what they do desire personally. The pursuit also respects individual liberty. Put this way, there really is no significant difference between working for people's welfare, well-being or wealth; they are all closely related.

This often assumed to be problem-free criterion is not really so problem-free. If we define these terms broadly, we may offer little in the way of help in deciding which actions to favour. If we want to maximize well-being which includes not just having spending power, but also leisure, health, respect, a good social and natural environment and maybe more, then we are hardly providing advice about which of these we should give priority. If we focus just on material wealth including money, however, then we may have to include among what is good the revenues raised from child prostitution, the drug trade, vanilla extract on skid row, violent pornography, the production of hazardous chemicals, nuclear waste, and much more. We should note, moreover, that if we remember that "economic wealth" is a means, then it can make a great deal of sense for a group of people to be united in an "economically" poorer country than they might otherwise be if this allows them to preserve or promote cultural values of various sorts, whether pertaining to language, social programs, views on criminal justice, means of reaching decisions and resolving disputes, or other matters. Wealth is not the standard, then.

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[2] See Mill, "Utilitarianism", chapter 2, pp. 7-11. Mill actually seems to value all pleasures; he simply ranks "lower" pleasures lower.

I.5 **Preferences.** A similar observation is in order about preferences. Not all of them should be realized. Preferences for sadistic sex with minors or entertainment from animals fighting each other should not be satisfied, and some preferences which are acceptable should be subordinated to others, e.g. preferences for a sixth golf course when people are living in squalor nearby, especially if we are speaking about collective choices. When people are making choices about matters affecting primarily themselves, that is a different scenario. Still, we should be cognizant of the illusion of individual choice and largely self-regarding actions which frequently occurs in the economic realm.

I.6 **The difficulty of selecting one "good".** I do not wish to give the impression that I think that happiness, wealth and satisfaction of preferences are not good things. Very, very often they are. But they should be seen as good only some of the time, and among a greater number of things that are good. A philosophy which selects only one "good" may make settling disputes a simpler intellectual exercise, and one that avoids difficult questions about what to do when pursuits of various good things conflict (and avoids whatever "metaphysical" judgments that may involve), but that hardly establishes its soundness. On the other hand, a consequentialist could value various good things; I can see no reason why he could not, but then his philosophy could lose much of its appeal.

I.7 **Consequentialism does not have a monopoly on valuing "the good" or "the useful".** We should not make the mistake, in any event, of thinking that only a consequentialist theory would value happiness, providing economic wealth, or individual liberty. A nonconsequentialist could very readily argue that people have a right to be happy, meaning more specifically, perhaps, a right to be fed, clothed, and cared for until they can care for themselves, a right to self-affirming social interaction, a right to make choices for oneself and so on. He could also argue that people have rights to wealth, or economic wealth can be useful for providing people with what they ought to have. And, on a broader plain, he certainly could argue that morality is all about promoting what is good or useful for people and condemning what is harmful. That some utilitarians such as Sidgwick, following Hume, make pointed efforts to support their view that what is right is intimately connected with what is useful (e.g. pp. 424, 425, 454-5) should not cause us to see an essential chasm where there is not one. However many opponents of utilitarianism at different times in history may have held positions that morality cannot be explained as intimately related to what is good or useful for people, there certainly is no reason why nonconsequentialists need to maintain that morality has to be explained as dictates emanating from the arbitrary will of a Supreme Being, or simply as something inexplicable. Consequentialists as well as nonconsequentialists can and do disagree among themselves as well as with each other about what is good for man, and what is more important if there are different ultimately good things. On the other side of the coin, a consequentialist could agree with a nonconsequentialist that economic desert, for example, is good, by itself or as part of some greater category of good, although as it turns out, desert is not favoured by consequentialists. If it were, then they, too, would need to offer an explanation of its nature. (Consequentialists also need to beware of making "the good" too large a category, as well as identifying too many "goods", because the more inclusive it becomes, the less useful it becomes for guidance in decision-making. Then again, maybe this just shows the implausibility of simplification of the moral life.)[3]

II.1 **The maximizing feature of consequentialism.** If the preceding is correct, just what makes consequentialism distinct? The answer is: it is an outlook which requires maximizing of good consequences (or the highest surplus of good ones once the bad have been subtracted). And as a corollary, we can state it stands very prepared to sacrifice some quantity of good for the sake of a greater quantity, with it almost going without saying that it sanctions foregoing or sacrificing other considerations for the greatest net balance of good consequences. If it is hedonistic, then, it will sacrifice some people's happiness for a greater amount of happiness overall, and certainly, as well, what it does not see as part of their happiness.[4]

A utilitarian is committed to favouring the most "useful" option, no matter what the distribution. If we have to choose between 10 "utiles" (units of usefulness) for one person with a voracious utiles appetite, a utility monster in Nozickian terminology (p. 41), and none for nine other persons, and 9 utiles for 9 persons but none for the monster, the utilitarian would have to opt for the monster. His position might seem to be much more palatable if we did not speak of "monsters" but instead of one person with very intense desires and 9 others with little interest in what the utiles represent, and even more so if we were to be sacrificing a minority for a majority, rather than the reverse. And his position could be seen as even more correct if we were to speak of the distribution of scarce medical supplies, rather than something inessential, such as an opportunity to eat more chocolate when one has already eaten a large amount of chocolate.

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[3] See chapter four of Mill's "Utilitarianism". He defines happiness very broadly.

[4] A consequentialist, some seem to think, could also take a maximizing position on rights. The more I think about this the more I disagree, if we understand rights to be natural rights, because it is an essential element of what they are that they are to be respected without consideration of the consequences of violating them. Whether they are to be considered absolutely inviolable, however, is another matter and one which I will address, in a fashion, shortly. If we speak of rights as simply conditional protections, useful for the longer term greater good, we really mean something hugely different, and then what follows can be very different as well, including a sanctioning of trade-offs.

The utilitarian position is to be rejected, nonetheless. It may well be true that we should take a utilitarian position on the distribution of scarce medical resources, and not give, e.g. a half life-saving dose of a medication to two persons when a half dose will save neither, and one stands in more need than the other (see Smart, "Distributive Justice and Utilitarianism", p. 104). I would not rule out desert as a factor in allocating medical resources, however, nor will I, at this point, dismiss the possibility of natural rights to having needs, medical or other, met. I will discuss meeting needs in the next chapter because it is an objective that merits special consideration, whether from a consequentialist or nonconsequentialist perspective. For the moment, though, it is sufficient to note that for the concept of needs to be meaningful, it has to be presented along with a recognition that some things are not needs. Consequently, even if we were to establish the desirability of taking a utilitarian approach to needs, doing so would do nothing towards establishing the desirability of a utilitarian approach with respect to other matters.

II.2 **Failed defenses of maximization.** The utilitarian has two main ways of responding to general objections to maximizing. The first is that examples designed to expose the failings of utilitarianism are based on highly implausible descriptions of the way the world works; the second is to offer examples to show that we all are, or should all be utilitarians in the crunch. An example of the first kind could be McCloskey's case in which a law enforcer frames an innocent person to prevent a riot by an angry mob which would result in much loss, quite possibly of human life (see Rachels, Elements, pp. 106-7, 110-11). Everything considered, framing the innocent might not be the best choice, not only because of the possibility of discovery, but also because of the effects on the law enforcement officer were he able to keep his decision secret. Similarly, it could be argued that examples of a segment of the population producing the most happiness by enslaving a racial group (whether a minority but especially a majority) to work for it, are unrealistic (cf. Paul Taylor, pp 86-7). The population of contented slaves and masters that may be posited can only be a fiction.[5] Even if these counterclaims are correct in these instances, however, can we be sure that denying some people their rights will never produce the greatest happiness, whether women, immigrant workers, or uneducated, unorganized, manual labourers? In a sense, this is to beg the question: what rights? On the other hand, the utilitarian has to accept the notion of the rights in order to argue that this approach does not violate them. The utilitarian, then, is actually better off not arguing that in the real world such rights may never be sacrificed by maximizing because that would be to make too much of a commitment to them, and to surrender his empiricism. He is better off arguing that should these "rights" be sacrificed, it is not a bad thing, not being part of his good (and even if they were, there is nothing wrong with giving up some of "the good" for more of it).

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[5] Another example which might be criticized as unrealistic concerns people leading miserable lives in ill health, pain and solitude. Would not the net amount of happiness be increased if they were to be killed painlessly and furtively? See Posner, Economics of Justice, p. 57, where he discusses an example given by Alan Donogan. Still another is allowing diseases to take lives as a means of population control.

So the utilitarian may take the other route and argue that indeed we all are utilitarians, or should be, at any rate, if we are thinking clearly. Consider a situation in which a madman will blow up a bomb within a very short amount of time. Can we not torture him, or, if necessary, his mother, if that is the only way to make him talk? (cf. Grassian, p. 9) There are a number of problems with this example. We would not have only two options if the bomber were asking a ransom. We would have three: not paying and having people die; paying; and torturing. Paying the ransom could allow us to recover the ransom, depending on other unhypothesized factors. More importantly, though, we could have more than three options, even if the bomber had not made any demands. And if we ruled out torture, we could well have motivation to try harder to find the additional options. But if we really could think of none other, and we did torture the person, then we would not have chosen between a right action (torturing) and a wrong one (letting people die or paying a ransom) but between two wrong ones, two evils. The same applies to more realistic examples, whether oppressing a racial minority in a comparatively kind way because hardliners would have been harsher or killing a dictator and immediate and other family members who have done nothing to deserve death to prevent continuation of his family's rule.

Much of this is beside the point. As Bernard Williams says, nonconsequentialism is not defeated by giving us one or more examples of cases in which consequentialist calculating should prevail. Just because there may be some cases where we would use "injustice" to save the world, does not mean that there are no cases in which we would, appropriately, sacrifice a greater amount of good consequences in order to respect restraints on the pursuit of them ("A Critique of Utilitarianism", p. 90). My challenge, though, is to address the question of whether the economic realm provides any such cases.

II.3 **Maximizing wealth.** How do the preceding comments apply to economic wealth which is the focus of this investigation? Is it appropriate to sacrifice some person's "goods" or interests for a greater amount in this domain? But this is not quite specific enough. The question is: who is it who would be sacrificing and for whom or what? As much as more is often preferable to less, it is vitally important to ask where "the goods" come from and where they go to. If a country is able to accumulate a great deal of wealth by invading its neighbour and bringing back items the invaded had produced, it would be difficult to argue that it had done a good thing. It would still not be a good thing if the invader left behind some of its surplus supplies of blankets and bread if the plunder were of far greater value. Now, there is no reason why such a judgment should apply to one country's domination of another country, and not to one part of a country's domination of another part of the population of the same country. Even if the dominators are especially good users of their plunder and plough it back into further production and increase the overall amount of wealth, that hardly justifies their actions.

How far does the analogy apply? Some or all people may be required to contribute to collective purposes and so not all taking away should be seen as plundering, I will agree. But should we say that all socially organized economic activity should be for collective purposes? No. People ought to be able to provide for themselves in order to fulfill their nature as doers and makers and receive some or all of what comes about because of their labours, as I shall argue more elaborately later. But even if all labour should be for collective purposes, there could still be reasons to say that the producer or worker should get a significant portion of what he produces. In any event, we could not justify taking from the weaker, simpler or more good-natured to give to the stronger, more sophisticated and selfish. In short, production of the most wealth possible would not necessarily be good.

II.4 **Maximizing wealth to everyone's benefit.** There are those who will argue that we can put in place a generally fair system; beyond that a preoccupation with distribution causes us to overlook the attention we need to pay to productivity. The implication seems to be that we should live with some (maybe considerable) "inequity" in order to promote a greater amount of wealth creation. We can't really have both. So favour wealth creation: it is good for everyone, raising the minimum and general level of the standard of living. Prosperity trickles down. Consequentialism of this kind should prevail.

The first flaw in such an argument is that it fails to establish an adequate notion of good to maximize (or at least promote vigorously at the expense of some other considerations). The numbers-obsessed will look at the value of goods and services in dollar figures, maybe just because of ease of calculation, but also possibly because money spent is as objective a representation of personal values and preferences as there is - to use other operational criteria would be too authoritarian and freedom-denying. If we consider "freedom" to be part of the good, however, we would need to consider the situations in which spending of money conflicts with, takes away from, and does not add to freedom, sometimes in the political sphere, sometimes in the economic, especially when we consider effects on third parties. Even orthodox economists speak about other non-monetary goods, such as leisure that people are willing to exchange for monetary wealth they believe is taxed excessively (see, e.g., Okun, p. 97fn. and McCaffrey, p. 293) and components of income or remuneration such as personal satisfaction, the social environment, prestige, convenience of working location and so on. It is also clear that many people do not want "the most" income or wealth possible, but a stable income with some security. Indeed, the goal for the economy as a whole may include "stable growth" rather than accelerating expansion. Just what is to be maximized, then?

Satisfactory resolution of the first flaw would not negate the second. The opposition between productivity and distribution is exaggerated. Whereas the argument often takes the form of a rejection of an egalitarian distribution, there is little reason to think that a just distribution will be an equal one, if we think it just to give people what they deserve on account of what they do. If we advocate making incomes more equal, it is also not necessarily the case that we must take from what the better off have earned and simply give it to the poorer folk for doing nothing at all but being poorer. We could actually take from those who are overcompensated and give to those who are undercompensated. Other possibilities exist, too.

But don't we need to have the rich because they know how to save money, or use it, and produce the most good from it? This might be true, but only to a limited extent. The reason many poor people do not save or invest much money is simply that they do not have any spare money and the rich do. Reverse their positions and their savings rates would clearly change. Some poorer folk are spendthrifts who cannot or will not defer gratification of their desires, but to say that this is true as a general rule is truly suspect. Once you have a certain amount of money, you run out of desires of the moment you cannot satisfy. Well, then, the rich know how to make money with their surplus. Maybe so, in some cases, but does this justify taking from what others deserve, and for promotion of what may not be real wealth as it ought to be defined?

A maximally productive arrangement may well not be one in which people receive returns in accordance with what they contribute to that arrangement, because of what people do think, and because of how they exercise their economic and political might. But it is worth asking if we can change the way people think and act. To whatever degree we can or cannot, it is also worth considering what other, more just arrangements could be put in place, that would also be very productive. If justice were to require distribution according to contribution to useful activity, as I will argue it does, it hardly seems that a just society would also not be a productive one. But we always need to ask ourselves how important it is to respect individual persons' entitlement, and if we realize it is very important, then we ought to be prepared to live with less "wealth" than we might have otherwise - especially when the wealth is of questionable value.

II.5 **Inequality and unhappiness**. The utilitarian may try to answer the criticism that he neglects the well-being and entitlements of the individual by offering a number of other responses.

Some will say that a greatly unequal distribution of wealth (and presumably happiness) will not in fact provide for the greatest net amount of happiness possible. This is because a) marginal utility declines with income - the richer you are, the less each additional increment of wealth adds to your happiness; and b) awareness of inequality causes the less well off to be very discontented. As difficult as it may be to make interpersonal calculations of happiness, and as much as libertarians object to someone even making the attempt, I do not doubt that we can make some good rough estimates of welfare if not happiness, and indeed may be obligated to do so in some circumstances, such as in emergencies. I do have doubts about the declining marginal utility of wealth or income, however, on the one hand, and certainly about the assumption of the equality of "utility" with equality of income or wealth, on the other. Such discussion, more importantly, has limited applicability because it ignores entitlements. A similar observation is in order concerning discontent. Williams almost captures the point when he writes "the objection to an inequitable state is not contingent on the worse-off persons being discontented; on the contrary, their being worse-off provides a ground for their being discontented" ("Critique", p. 143). (I say "almost" because Williams seems to using "inequitable" to mean unequal, whereas it should be linked with justice in this context.) People are not better off being happy with an "inequitable" distribution of income (or not knowing about it) than being unhappy with one, and here I mean treated the way they ought to be when I say "better off". It is not very difficult at all to imagine people who are relatively happy with their pittance pay and exploitation - and should not be. Therefore, we can challenge both the claim that significant inequality will lead to discontent, and the implied, related point that people would be better off if contented.

It can be argued with some plausibility that people should be relatively equally happy or well-off because of their entitlement to be so, on the basis of human needs. It is also plausible to argue people ought to be able to be very roughly equal in being deserving or doing deserving things. I will follow up on both of these. The point for the moment is that the utilitarian, maximizing totals (whether or not by means of increasing equality) is missing key components of the picture. Maximizing totals is not the goal of a sound moral theory. It matters _why_ people get or do not get what they do. Also, numerical equality may be moral inequality, considering that people are unequal as well as equal. A society of equal incomes could be a very unjust one and one with more inequality could well be much more just.

II.6 **Average utility**. It is interesting that some who are apparently utilitarians concede the point here, and argue that not total, but average happiness or utility should be maximized. There are two main difficulties with such a position.

The first difficulty is that there is no utilitarian justification of the step. If someone were to speak of supplementing the utility principle with another principle, rather than simply realizing that the utility principle is flawed, he would still have to concede that he is indeed _not_ promoting utility maximization but instead some objective which _conflicts_ with it. It would be necessary, moreover, to articulate carefully just what that averaging principle is, and to justify adopting it.

The second difficulty is that the average has little to commend it. As Williams writes: "On the criterion of maximizing average utility, there is nothing to choose between any two states of society which involve the same number of people sharing in the same aggregate amount of utility, even if in one of them it is relatively evenly distributed, while in the other a very small number have a very great deal of it..." (142-3) So if we were to have a small ruling class made up of 5% of the population enjoying 900 utiles and the other 95% "enjoying" 100, and we had another society in which the top 5% had 300 utiles, the next 65% had 500 utiles, and the remaining 30% 200 utiles, the "average utilitarian" would have to say that both were equally satisfactory.

Interestingly, Mill says that the claim that "equal amounts of happiness are equally desirable, whether felt by the same or different persons" is "the very principle itself" ("Utilitarianism", p. 65n.). Although he is not justifying the pursuit of average utility, he is offering insight into utilitarians' thinking, and particularly their view that it does not matter to them who experiences happiness or how much. Distribution is only an instrumental consideration. This is neutrality, impartiality, benevolence, and indeed, indifference, with a vengeance.

Now, the actual objective of promoting average utility may be to accommodate concerns about the importance of the individual which a total utility maximizing approach fails to do. I can see no other rationale for it. Those taking this route cannot but fail in the attempt, however, if they are to remain within their consequentialist framework.

II.7 **For the greatest number**. Observations similar to those above can be repeated with respect to the qualifying clause "for the greatest number" which often accompanies "the greatest happiness" (cf. Grassian, pp. 79-80). It is a meaningless addition when the happiness of the greatest number is not the greatest happiness, and when conceivably useful, that is, when used as a tie breaker, it overlooks criteria of entitlement. If the impulse is to maximize the meeting of needs, or of some minimum standard of living, or level of happiness, meaning obtaining these for as many people as possible, then it would appear that there is something about people as individual persons that ought to be respected (e.g. it is important that they be enabled to experience happiness or well-being; it is not the happiness or well-being that is primary), and an unlimited maximizing strategy would be in conflict with it. But whether or not I am right in my psychological speculations about the ultimate motivations of these utilitarians, there is indeed a case to be made for entitlements on one or more grounds, and maximizing, including trading-off one person's for others' with respect to these, is often if not always unjustifiable.

II.8 **Could recognizing desert be the most useful maximizing strategy?** The utilitarian might agree that utilitarian thinking is not necessarily the most useful in given circumstances. Mill says that the best method of distribution, whether one of equality or inequality, can only be decided by "social utility" (p. 60, see also p. 48). He surprisingly makes no reference to an explicitly utilitarian set of criteria. J.C. Smart also writes about the utility of accepting, even reinforcing beliefs in taboos in a magical taboo society ("Outline", p. 50-1). Smart, however, states his belief in the superiority of a utilitarian ethic. These thinkers' apparently undogmatic flexibility is not to be admired. It shows a great willingness to accept or sacrifice what should not be, and preparedness to embrace the status quo or, alternatively, to manipulate people, telling them that their beliefs are sound when you truly think that it is merely useful for them to have them (cf. Williams, pp. 123, 138). If, on the other hand, quantity of usefulness is not your ultimate criterion, then you may well respect people as deserving of certain kinds of treatment, and as beings with integrity and inherent self-worth. Then you will not simply be interested in rewarding desert when it coincides with or is needed to promote "utility".

III.1 **Incentives**. The utilitarian may still reiterate, of course, that there is no such thing as economic desert, or economic desert understood in non-utilitarian terms, and then appeal to strictly utilitarian criteria. Sidgwick, noting that the social circumstances in which we find ourselves, the care we receive from parents and teachers, and our dispositions and talents are all effects "of causes extraneous to the man's self", comments that:

> ... The only tenable Determinist interpretation of

> Desert is, in my opinion, the Utilitarian: according to which, when a man is said to deserve reward for any services to society, the meaning is that it is expedient to reward him, in order that he and others may be induced to render similar services by the expectation of similar rewards. (284)

The matter of incentives is somewhat more conceptually complex than might first appear. What should we include? If we refer to financial and other benefits to make up for costs incurred in training and for danger, unpleasantness of work and so on, we simply address the issues I will discuss as matters of compensation. If we refer to added payment to entice people to do work of a particular kind, perhaps in particular places, which might not attract people without the premium, but work which is of no greater value than some other work without premiums, then we end up proposing something which hardly seems just - for several reasons. It is unjust vis-a-vis those doing the other work, but I admit that this is from the point of view of someone who holds that people should be paid according to the value of their work. It is also unjust, again from my perspective, to pay someone more because of his attitude, especially a negative attitude, to his work. As Barry, discussing a related example, suggests, if incentives were the reason for paying someone more, then someone who did not need financial enticement _ought_ to be paid less (_Political Argument_, pp. 166, 169).[6] If some millionaire athletes really would play their sport for "nothing", as some sometimes say, then there is no reason to pay them anything. You might say that we should pay everyone "the same", meaning in step with some general salary scales, however problematic that might be, because we cannot really know who has which motivations, who really needs financial incentives. I doubt that that is a problem. Could we not simply try not paying some people the same or as much or anything and see what they would do? Of course it is likely that few would work for nothing because of ridiculous ideas people have about fairness and desert (or possibly social recognition), even when they have no pressing need for the income.

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[6] See also David Miller, _Social Justice_, pp. 93-4, 103-4.

Whether anyone has forwarded this next argument, I would think that many proponents of incentives would say that people ought to be paid (extra) for doing what they would not otherwise have done because people should be compensated for displeasure or lack of pleasure in performing tasks, there being no intrinsic basis for desert in any event. The rider at the end, though, is precisely the issue at question. If work does have some objective value, then it is up to the worker to adjust his attitude or not do the work, rather than up to others to bend to him. Of course, if someone were to say that lack of pleasure or fulfillment ought to be compensated, whether via "compensation" or "incentives", as a matter of justice, then we embark upon quite a different debate.

The picture will look quite different again if we take "incentives" as something which should increase with the importance to society that particular work has, rather than as payments which should vary simply according to the degree of difficulty in attracting available labour to a particular field. Again, the need for a separate justification of "incentives" disappears. It makes much more sense to see higher wages paid for scarce labour as payment for more valuable labour - when it is more valuable. And if it is not, then no premium is warranted. Therefore, the incentive for doing non-obligatory labour that society should require an employer to offer is full payment of the worth of labour. Underpayment (once we consider all forms of remuneration) should be a disincentive, whether it is or not. Overpayment is conceivable even when "needed" to attract workers, and should not be paid. Pay, at any rate, is only one factor in attracting labour. The number who are trained is another -

and the number who want to become qualified is not only determined by pay. Indeed, the number trained is not only determined by decisions of those who are trained!

III.2 **Other utilitarian criteria.** If we were to look for other utilitarian criteria, we could find others. We should reject them, too, in large part if not in their entirety. We should not say, for example, that financial payment should be made with a primary eye on social stability or labour peace. If, and we should not conclude this quickly, if just payment necessarily conflicts with stability or peace, and no accommodative measures can be taken, we should either a) conclude that stability or peace are not worthy objectives in the particular situation or b) conclude that just payment can be denied as an interim measure for the sake of a public good, say, until attitudes toward accommodative measures (if not fully just compensation) can be changed. In the case of "b" the injustice should be considered to exist whether or not a consensus about that can be obtained. Furthermore, some accommodative measures should be preferred, such as providing alternative forms of payment, and some forms in preference to others. (This would still be unjust or otherwise wrong if choices which should not be denied were denied.) It is necessary to remember, however, that some goods and services are not properly provided as means to private gain.

IV.1 **Conclusion.** Utilitarianism has two main components. One is its identification of what is good, and to which priority should be given. The other is its endorsement of maximizing behaviour, which involves trading off some good for more, and, naturally, sacrificing non-good for good. I am arguing that there is no unitary, non-divided conception of good which we should accept. A just allocation or distribution of economic resources would have to include recognition of what people deserve as part of the good or one of numerous goods, and trading it to maximize wealth or social harmony and the like would often, if not always, be disrespectful of persons as valuable beings who experience unique, individual lives, and who act as well as are acted upon. I will expand the affirmative portion of my argument after considering a possible contender within my broad criterion. Meeting needs could be seen as the basis for a conception of economic justice which does respect individual entitlements. I will explain next why it can do no more than go part way in doing so.

Postscript on Rawls. In A Theory of Justice, John Rawls provides an emphatic rejection of utilitarianism because it fails to "take seriously the distinction between persons" (p. 27, also p. 187), or, in other words, because it fails to respect the entitlements or rights of individuals. Yet Rawls, working from the same deterministic premises as Sidgwick, concludes that income differentials can be justified insofar as they promote the public good. Indeed, he says that: "The function of unequal distributive shares is to cover the costs of training and education, to attract individuals to places and associations where they are most needed from a social point of view, and so on" (Theory, p. 315).

We might take Rawls to be saying that people should or can justly be paid more when their work benefits everyone; that is a matter of everyone's self-interest. It is just that some people receive more because they do so by acting in accord with the institutional arrangements of society (which is what justice is) which advantage the least advantaged which everyone rationally fears he could become if he is not so already. Whether Rawls realizes it or not (he does not - see p. 103), he is saying that the most naturally talented - at doing what benefits the least advantaged if not everyone - should be entitled to more (or at least that is not unjust).

I do not see that this differs significantly from other claims that it is not unjust that people should be able to benefit by using natural abilities (cf. Dick, pp. 253-4; Rescher, pp. 102-105). Be that as it may, if it is a matter of self-interest that the least well off benefit, and that no-one benefit to the disadvantage of others in general, then the need for incentives should disappear. As it should if we want the least-well off to be made better off relative to others.

Now, why would someone of Rawls' egalitarian inclinations not argue that people should be _paid_ equally (according to need if not absolutely) and should see that unequal _work_ is in everyone's interest? He might say that paying extra to those who fail to see this is useful, a necessary evil, but he can hardly defend this as just even in the logic of his own construction. As it is presented, his "difference principle" (the principle that social and economic inequalities are acceptable only when to the benefit of all, especially the least well off) has a decidedly utilitarian flavour. This is even more evident when we note that his difference principle apparently pertains to income, i.e., _inequalities of payment_ are to be to everyone's advantage. He does not argue that _labour_ which is more to everyone's advantage, or to more persons' advantage, or to greatest advantage of any number of persons should be paid more than labour which is less advantageous. This is a major injustice and a major problem.

Chapter Three: Meeting Needs - One of the Components of Economic Justice

Unlike a utilitarian, someone appealing to needs as a criterion of economic justice may respect nonconsequentialist individual entitlements (i.e. ones not dependent on the usefulness of recognizing them). He may, however, make needs the only basis of such entitlements to economic wealth, and rule out desert either in principle or simply in fact - by giving priority to the meeting of needs which are not fully met in a world of scarcity. I wish to argue that some needs indeed ought to be met as a matter of nonconsequentialist entitlement, but this still leaves considerable room for desert in principle, and very often in fact.

People engaging in philosophical discussions of economic justice often take one of three approaches to the matter of meeting needs. They may reject an obligation to meet people's needs on the grounds that needs are "normative" or subjective concepts belonging to particular understandings of the good life which lack objective and universal validity. They may instead affirm that the needs which people have constitute the major basis on which to make decisions about allocation of economic wealth. (They may even go so far as to say that all harms people do to others, including stealing and assaulting them, stem from a failure to meet their needs, whether or not they emphasize "economic" needs.)[1] Or they may simply pay little attention at all to needs, as a distinct consideration.

The concept of needs, on the other hand, plays a major role in public and political discussions of entitlements, especially in countries which have adopted some form of the "welfare state". As Raymond Plant says:

> ... Without the idea of need and the nature of the claims on society which needs make, it would be very

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[1] David Braybrooke (p. 7) points to the one-sided traditions of "orthodox non-Marxist economists" and of Marxism in his description of polar camps on the question.

> difficult to understand the nature and normative underpinning of the welfare state just because it is often thought that needs characterize the sphere of welfare independently of the sphere of markets. (p. 186)

But need also plays a major role in the taxation system which is not usually thought to be a part of the welfare state. Basic needs, such as needs for food, clothing and shelter are often given tax-exempt or special status (cf. Benn & Peters, p. 175). Just because needs have been given a privileged place does not mean that they ought to be; it is a reason, though, to take them seriously.

Another reason to take meeting needs seriously is that the idea is compatible with the view that I am taking that individual persons have intrinsic worth and corresponding entitlements. It is not the only compatible view. I will argue, nevertheless, that people are entitled to have some needs met. I will also argue, though, that obligations to meet needs do not cover the entire range of economic justice. Once a place is recognized both for meeting basic needs of persons as human beings, and for entitlements as members of communities, there is still room for recognizing entitlements of individuals arising from the actions they perform. I will continue my defence of economic desert, and will elaborate upon it, in the next chapter.

I.1 **The objective nature of needs.** The first task in discussing claims based on needs is to identify their nature. One of the difficulties with the notion is its great elasticity. It can be as simultaneously comprehensible and elusive as "happiness". But it simply will not do to claim that all needs are subjective. Indeed, the contrary is closer to the truth - what distinguishes a need from a want is its very objectivity. As David Miller says, "wanting is a psychological state, which is ascribed on the basis of a person's avowals and his behaviour.... Needing, on the other hand, is not a psychological state, but rather a condition which is ascribed 'objectively' to the person who is its subject" (p. 129, emphasis in original). This needs elaboration. We may well have needs which are a result of our psychological state; we may even need something because we think we need it, but it is not the desire for it, or conception of it as a need that makes it one. The state of affairs brought about by not having something is what makes something truly a need. It is "injurious or detrimental" not to have a need met (see Benn & Peters, p. 165 and Plant, p. 199 who note, but do not wholly embrace this perspective). Therefore, it makes much sense to distinguish between needs and wants, desires or preferences.[2] No problem arises from the fact that we may well need to have some of our preferences, i.e. non-needs met (cf. Braybrooke, pp. 191, 236). In fact, experience would seem to bear this out - individually and collectively people have always devoted resources to things they could do well without.

Admittedly, we could say along with Aristotle that we seek amusement and relaxation to restore ourselves so that we can be active and work (Ethics, pp. 261, 262; cf. pp. 177, 264-5), and in this sense we could say that in a good life we need to do everything we do as a means to living well or as part of living well itself. But this would be to overlook the optional quality of many of our choices, and to neglect important gradations of need. Perhaps we should speak of degree of need, and corresponding ranges of alternatives so that at one end of the scale we have essential needs with few options and foregoable needs with many manifestations at the other. If we were to describe everything that people want and desire as well as everything they would be less well off without as needs, the concept would become (like a very inclusive notion of happiness) of little use in making decisions.

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[2] I am very satisfied with the treatment of needs as distinct; I am not satisfied with lumping together wants, desires, preferences etc. because there may well be important distinctions to make between and within them - concerning state of mind, who is to be affected, objectivity, rationality, voluntariness etc. but what I could say is as uninteresting as unnecessary here.

We can and should retain the idea that needs are objective. Many stand in a means relationship to ends. We have needs for certain things in order to do or be something. We need x for y. Whatever x works, it is a matter of fact, whether use of x is necessary or sufficient. Y is sometimes, and many important sometimes, a matter of fact; other times it is simply a matter of choice or preference. So sometimes we need to fulfill certain y's, which may in turn be means to further ends. We do not need to fulfill some y's, however, and so these y's are only conditional ends, and are themselves wants and not needs. We need at least one bat to play a baseball game. We do not need to play baseball (although we may need some challenge, competition, fitness etc. to pursue excellence). Now, we may think some persons have perverse needs, e.g. to dominate others (see Braybrooke, pp. 115-16; 270, 272), but that is not the case. No one can need to be how a person needs not to be. We do need to be healthy.[3]

I.2 **Corresponding duties**. There is an important element of the concept of needs we do well to observe to complete the picture. Not only do needs claims make reference to some state of fulfillment or well-being, they also often suggest, like rights, that there is a correlative obligation on the part of others, and that obligation is very often a positive duty to provide someone with something, i.e., with what he needs. True enough, you may be dying of thirst in the desert and think that what you really need is drinking water, without any hope of anyone providing it for you. You may also think that you really need other people to mind their own business, or not get in your way or take or damage what is yours. Much more often, though, needs seem to be claimed as positive rights. Yet positive or negative, the question needs to be answered: who are the claims directed at, and why are those persons or institutions or governments called upon to fulfill the need?

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[3] See Miller, Social Justice, p. 127 for three types of needs.

II. **Objections**. Four main related objections to needs claims are raised. 1. There is no objective standard for human needs, or at least the ends they are means to. 2. Needs are "normative" concepts or a part of a particular moral view, which no-one is entitled to impose on others not sharing that view. 3. Identification of needs results in assertions of authority to ensure they are provided, and paternalism if not totalitarian social re-engineering. 4. We have no obligation to give up some of what is ours in order to meet other people's needs, or what they see to be their needs.

II.1 **Are any needs objective?** Philips and Mounce reject the idea there are basic objective human needs. They discuss a philosopher who is benefited by blindness which allows him "to concentrate on philosophy" and a "Catholic mother" who "resists the claim that she will be harmed by having further children because in her view ultimate harm cannot accompany the birth of the children of God" (Plant, p. 201). Plant adds the example of the Jehovah's Witness who believes he will be harmed by being "saved" by a blood transfusion.

Such examples prove little. The case of the particular philosopher could be challenged, but it is not necessary to question it to establish the point that it is exceptional, as would be the case of a drug addict who almost dies, and recovers to warn others of the perils of his actions, thereby saving many from death and other often bad things. We can safely say that blindness and drug addiction are usually undesirable, and when they are not, it is because of some objectively good end other than physical health that they serve. Stop to think. What if I went around blinding as many people as I can because I think I might be creating a great thinker and human benefactor? Should you respond by saying you do not really know whether I am harming anyone, or my only crime is to go against the wishes of those who do not wish to be blinded? Do not be blinded by such casuistry.

The Catholic mother and the Jehovah's Witness may be mistaken; they may be right in what they believe. It cannot be the case that the Jehovah's witness is neither right nor wrong in believing that he will not receive eternal life if he receives a blood transfusion. If the Catholic mother is better off for believing something which is not objectively true, then that she is better off is objectively true.

II.2 **Are needs ultimately "normative"?** Are needs not normative (i.e. relative to changing, non-objective norms), anyway, if we stop to realize, first, that needs are dependent upon people's beliefs, and, second, what are considered to be needs vary from time to time and place to place? The first observation (see, e.g. Plant, pp. 201-2; Benn & Peters, pp. 169, 174) only really establishes the point that people's beliefs differ, not that none are correct. Of course, there is a real question about whether a group of people holding one view of the truth is entitled to require everyone to act according to it. The more complete question is: is responding to needs of some kind the sort of matter about which a collective decision is required, and if so, then how is that decision to be reached? There are a number of reasons why some personal needs of individual persons should be addressed by a community. One is self-interest; people may benefit by seeing to it that others have their needs met (whether because that quells discontent, decreases crime, or puts in place a safety net for when they or people they care about may need it). Another is the possibility that the community is responsible for creating the needs or the situation in which the needs arise, for example, by closing a road, damming a river or favouring certain industries. Another is the obligation people have to look after those who cannot look after themselves, simply because we are in the best position to look after them. We may well perceive this as our humanitarian duty, provided we do not have to sacrifice our own welfare.[4] And still another is the obligation people have to the community as an interdependent, cooperative venture which includes but also goes beyond economic exchanges, and so requires people to see the benefit the community as a whole receives from having people as contributing members to its social, cultural, political, moral, and religious or spiritual as well as "economic" life.

This is where the second observation enters in. Communities differ in what they perceive to be needs. So how can we say that there are any needs that ought to be met, and any needs that it is wrong not to meet?

Consider two examples. In the first I am a person who has to live a considerable distance from where I need to work (whether because of unavailability of affordable housing near work or need to live close to dependent parents or other reasons); I need a means of transportation, say car or bus, and a telephone to be contacted for short-notice work assignments. In the second example I need to have fashionable clothes, attend certain kinds of social events, dine at suitable eateries, and so on in order to be accepted within a social circle to which I need to belong (cf. Adam Smith cited by Braybrooke, p. 101).

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[4] How much of our welfare? This is difficult to answer when concerning one person. Judith Jarvis Thomson's "A Defense of Abortion" raises interesting questions along these lines. When we speak about a community responding, however, then there is a minimal inconvenience at most for each person, because of the pooling of resources, and then the question is much less difficult. Is not the character of a community largely defined by how it treats its most unfortunate members?

We might say that no-one ever needed a car, bus or telephone before they were invented, and hence they are non-universal needs for that reason alone. On the other hand, the need to be able to get to and from a place of work and the need to be able to communicate with someone with some control over your work are hardly confined to the present. Still, in the example, there is not a need for some form of transportation and communication, but for a car or bus and telephone, since alternatives do not exist for this person. It could be otherwise - there could be a different housing situation, or a train system, or car pools, or other arrangements to reduce the frequency of travel (whether to save on energy or reduce pollution, etc.), but there is not. The person in question cannot change his needs alone, nor, perhaps, influence the social conditions which make them needs. But however much it is the case that there is not a cosmological necessity that they exist, these are in fact "real needs", whether or not the society in which they exist recognizes them as such (cf. Braybrooke, pp. 83-106, 239-46). If they are not met, the functioning of a human being qua human being is impaired. We could say the same thing about even newer technologies, such as computers in societies in which opportunities and social interaction are significantly dependent upon them (in part because resources have been diverted away from previous methods of accomplishing various things).

Is it a matter of fact that people need certain things in order to be socially accepted? I consider it debatable that people need to be accepted in circles which have possessions of some type and expenditures well beyond normal means as necessary for entry. Even if I concede that they do, and even if I bypass the fact that this would be a fact, I could still deal with the conventionality of the requirements themselves. Clearly in such instances the requirements are only manifestations of a universal. A need for a leather jacket, say, would be a manifestation of a need to wear clothes which are fashionable. The real relativist challenge might be the observation that in some societies it would be considered an injustice to fail to provide for such needs, in others it would not be a matter of justice at all. But this hardly goes beyond making some kind of anthropological claim, and skirts the issue of whether such needs ought to be considered a matter of entitlement and justice and why or why not. Even then, the real issue here is not whether all matters of needs are objectively knowable, and universal, but whether any are, and if any are, what they might be.

In short, while needs, wants, conveniences etc. may be dependent on social circumstances, perhaps including social norms, observations about which of these exist, and judgments about which of these are due (owing) to people and when are separate judgments. At least some judgments of entitlement are non-relative.[5]

II.3 **Paternalistic threats to liberty.** Someone may concede the point about the objectivity of some needs, or simply claim that the ultimate nature of needs claims is an insignificant matter. We should be more concerned about the dangers inherent in allowing people to act on their views about needs of other persons because of the threat to liberty that poses. The threat is supposedly both to recipients and to others who are targeted to provide for the needs, and it comes from do-gooding paternalists. According to Plant, "if needs are objective and if one [the person with needs] is [Plant should say, may be] unaware of them in the sense that they can be ascribed independently of avowals, then this appears to sanction expertise over needs.... on the part of government or welfare professionals..." (p. 188; see also 190, 195, 202, 216).

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[5] You might interject that I am neglecting the possibility of individual as opposed to social or cultural relativism. I think such neglect is appropriate. Individual "relativism" is coherent if it is actually a reference to the desirability of individual persons deciding upon which moral truths to believe for themselves; it is not defensible as a position that whatever anyone decides is right or wrong is right or wrong for that person - there simply must be some criteria of but not only of that which qualifies something to be a claim of right or wrong. If someone were to say that teenagers should beat up strangers, or I should assault other-handed people, or I like turnips, there would hardly be reason to accept any of these as moral positions. Once you introduce criteria, however, you have abandonned within-self determination of morality.

It has been the case, without doubt, that the view that there are objective needs has been used to justify paternalism, but there is no necessary connection. It can very well be true that there are objective needs and the persons whose needs they are, are in the best position to know what they are, and to take steps to meet them. Assistance can be offered in more and less intrusive ways. Besides, the "experts" may be the community as a whole democratically expressing their wishes (although the discretionary powers inevitably delegated to field workers are subject to abuse, even if some are very justifiable.)

There is an opposite danger which Braybrooke for one wishes to avoid, i.e. the danger of unjustified overreaction to the possibility of paternalism resulting in a dismissal of the idea of needs altogether, and putting all means and ends under the heading of "preferences" (e.g., pp. 11-13). This would be to overlook the possibility of the convergence of needs and expressed wishes for many persons - many people want help meeting their needs (see p.23). It would also be to overlook the real, however limited, number of cases of people who do actually need help contrary to their wishes, possibly including persons who are depressed, suicidal or mentally ill.

Should we worry about imposing our paternalistic views on someone about to jump off of the top of a tall building who has just watched his soccer team lose a tournament, whom we could prevent from jumping? That would be an obsession with liberty carried to absurdity.

II.4 Who pays? People who are concerned about the liberty, or the rights of those who are called upon to support needs claims should reflect upon the points I made above about reasons for collective action to provide for needs. (I will expand on these below.) They should also reflect upon both the soundness of claims to resources they did not themselves create, and the assistance they receive from the state in creating the wealth they do create. Consider someone who discovers a new treatment for a disease (cf. Nozick, p. 181). Whereas people often have a right to use their possessions for themselves, they also often do not have such a right, or even a moral right to claim them as possessions in the first place.

As much as individual workers' efforts or nonefforts may count for in small, simple economic units, it is unobservant to attribute all relative success or lack of it in larger more complex economies to individual initiative or laziness, or that in conjunction with luck or divine will or fate. There are collective actors who purposively affect or can affect the "fortunes" of economies; these may be sub-class units, or classes, or governments. Governments make decisions about money supply, interest rates, employment training, investment incentives, tax exemptions, unions and collective bargaining, the regulation or nonregulation of competition and so on which affect individual prospects.

An argument can be made that some identifiable persons are responsible for creating wealth within this context, and for prior extraction and development of natural resources, and their alteration into business inputs or consumer goods, and I would agree that that should count for something. But not everything. Technologies have been developed by countless persons, who have been aided by countless others in countless ways, whether through education and training, provision of other goods and services, or support of infrastructures. Infrastructures of projects themselves are very often supplied collectively, whether roads, airports, railways, communication services, and so on. As Hobhouse writes:

> ... The prosperous business man who thinks that he has made his fortune entirely by self help does not pause to consider what single step he could have taken on the road to his success but for the ordered tranquility which has made commercial development possible, the security by road, and rail, and sea, the masses of skilled labour, and the sum of intelligence which civilization has placed at his disposal, the very demand for the goods which he produces which the general progress of the world has created, the inventions which he uses as a matter of course and which have been built up by the collective effort of generations of men of science and organizers of industry. If he dug to the foundations of his fortune he would recognize that, as it is society that maintains and guarantees his possessions, so also it is society which is an indispensable partner in its original creation. (Liberalism, pp. 98-99)

Indeed, many opportunities we have open to us are the product, not of our own doing, but of social conditions and deliberate choices of others in large measure (cf. p. 99).

Some of these factors which I have been discussing are not traceable to particular communities, but many of them are. As a result, people will be eligible for entitlements which will vary, not only quantitatively, but also in form, from community to community. These entitlements may be to postal service, public health care, subsidized transportation, use of recreation facilities, and so on, and at certain levels which may be entitlements for citizens qua citizens or members of the community into which people are invited and do not earn their way into by economic activity, or by being needs-bearers. That is to say, people are indeed entitled to not only have some needs met because they are members of particular communities, they are additionally entitled to receive some benefits which go beyond meeting their needs.[6]

There is a danger that someone reading this will agree with many of these points only to conclude that moral rights are meaningless; what really matters are entitlements arising from the practices and laws of the society in question. It is just that members of a society receive benefits because their society has adopted a policy of conferring them.[7] Therefore, if programs are established to meet needs or wants, or produce happiness, and you meet whatever qualifications are set (means tests, citizenship, premium payments, capacity to breathe etc.) then ipso facto, it is unjust to deny you the benefits. In my view, it is crucial to stipulate that the rules or laws cannot themselves be unjust. It would be no injustice to deny you benefits which are recognized as your due but ought not to be. It would be no injustice to deny you tax exemptions promised to people of your skin colour, even if that were unfair to you. If the laws or programs are neither just nor unjust in themselves, then the judgment that benefits are due to you if you meet the qualifications stipulated as necessary and sufficient, as a matter of justice, would seem to be correct.

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[6] We might wish to say that all members of particular communities are entitled to shares of wealth attributable to natural resources found within their borders, but I cannot see why the mere presence of those resources should extend claims to members of communities within which they are found, and not to all of mankind. I am far from having completely resolved this issue in my own mind, however. I do see entitlements to members of particular communities arising from their collective management and development of them, on the other hand. This is a point that Hayek (Constitution of Liberty, pp.100-102) does not consider in his discussion of this general question of possible entitlements citizens do not earn individually.

[7] David Miller (p. 123) conveys the view of J.R. Lucas that needs are to be met as a matter of justice when (and only when) "they are also rights deriving from a prior agreement or an established set of rules."

I am more concerned with establishing a basis for claiming that the meeting of some needs (and to a lesser extent here, some non-needs) is something to which people have a moral right. It is the responsibility of certain individuals and governing institutions to see that these needs are met; failure to meet them is an injustice. The responsibility may belong to individual persons everywhere to be charitable subject to certain qualifications (e.g., you do not have to risk undue harm to yourself or live a selfless life). Governments can act benevolently to help out where they can, for example, by sending money or trained professionals to assist in responding to natural disasters or other emergencies. My claim, though, is a rights claim (I will elaborate upon this choice of words shortly); individual persons are entitled to have some needs met without having to rely upon goodwill or utilitarian calculations of what will do the most good where.

People have moral rights to having needs met for a number of reasons. These are in addition to the good reasons which I mentioned earlier for assisting others meet their needs. People have inherent worth. Parents who bring them into being create the needs, in effect, of the persons whose needs they are. Societies, moreover, which enable parents to reproduce and function as a family unit, are also responsible, then, for creating the needs of children. To those who would say that children do not have rights, because rights belong to agents capable of making autonomous choices for themselves, I will simply say that we do not need to resolve whatever disagreements we may have concerning the nature of rights. I am simply maintaining that certain identifiable parties have responsibilities toward particular children, and they are obligated to fulfill them. If those responsible cannot fufill their responsibilities, they, or some other party or parties, are to blame for the failure. We should not excuse them by saying that people did the best they could with the resources they had available.

Whether children or not, people also have entitlements to having needs met when others take actions which significantly influence their life prospects, especially when those affected cannot counteract them. The ultimate responsibility for macro-level economic phenomena rests with governments, whether they choose simply to "manage the economy" or be more interventionist or command it. When governments fulfill this responsibility poorly they have an obligation to assist any disadvantaged as a result (cf. Hobhouse, Liberalism, pp. 105-106). Conversely, when they fulfill them well, people should have more of their fates in their own hands (see pp. 83-4).

Governments, of course, can take actions which significantly affect the life prospects of persons who are not initially their responsibility. Corporations and others can also take actions which create needs for other persons, often acting in concert with their home governments. Those which dump toxic wastes in other countries, force foreign governments to suspend health initiatives in favour of tobacco company access to markets, drive native farmers off their land or compel workers to work in degrading conditions, for example, are clearly creating needs which they ought not to be creating in the first place, but once they have, they have responsibilities in helping the affected respond to them.[8]

III. **Which needs are collective responsibilities?** If it is an injustice for responsible parties not to meet, or help in the meeting of people's needs, just which needs are at issue? All of them? Some writers take this position. David Braybrooke, for example, asks: "will it not be a powerful argument against any conception of justice that it would tolerate some people's needs not being met, when there are the resources to meet them?" (p. 132). The meeting of all needs, it seems, is what is due to people.

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[8] I can also see some merit in the claim that people who are not responsible for creating particular needs should sometimes be compelled to assist in order to alleviate the burdens the good-hearted assume. This is another of those matters to which I would like to give considerable additional thought; it is also not at all necessary for my argument here.

Others of a more liberal mindset (excluding, of course, those who reject the usage of the notion of needs altogether) say that collective responsibility for meeting needs is limited to ensuring people's enabling needs are met. People are entitled to have those things necessary for them to be able to exercise their rights (see Braybrooke, p. 151) or live as autonomous rational and moral agents able to choose their own moral beliefs, conception of the good and plan of life for themselves (see Plant, pp. 203-211 whose discussion focuses on views of Alan Gewirth).

It is plausible to say that we have a right to education, maybe job training, an opportunity to work (provide for oneself and one's dependents), nondiscrimination on illegitimate grounds, information, mobility, at least minimally safe working conditions... things we ought to be able to expect in any human society because they enable us to develop and express our humanity through productive or "economic" activity. We can expand this to say that we are also entitled to education in the use of reason for non-economic purposes, training in social skills, and teaching of the human spirit, perhaps. If you wish to call denial of these inhumane or cruel, or a failure to meet obligations to future generations, rather than unjust, I can see no reason why it would be worthwhile spending time to argue the point. We are entitled to the meeting of such needs; they are our due. We cannot be expected to earn or deserve or merit them except in the odd sense of being human, or living in a particular human community.

Are these the only needs people have a right to have met?

The isolation of enabling needs is actually both too restrictive and not restrictive enough. A child may have a right to parental support of certain efforts in music and sports, the absence of which may even increase independence and autonomy. A person who needs a new fence because his neighbour fell a tree onto it, is entitled to compensation, and a person needing a hip replacement may have a right to it (given, perhaps, a level of wealth of a society, and medical advancement). In these two cases, the needs are not intricately linked with autonomy, unless we should expand that term so greatly that almost everything could be captured by it. It is reasonable to maintain, then, that we can have a right to non-enabling needs. But we do not necessarily have a right to _all_ enabling needs.

The key is recognizing both responsibilities of needs creators _and_ the possibility of persons meeting their own needs, often but not only when those responsibilities do not exist, and whether or not those needs are enabling needs. The key is _not_ whether someone has earned provisionment or is at fault originally - if he cannot extricate himself from a position of need, others (whether guardians or providers of some sort, or society) should provide for that person. We cannot presume that people who become ill from malnutrition or suffer from schizophrenia can provide for their own needs, or require them to merit assistance. It would be cruel to fail to rescue someone from a mountain ridge he should have known would likely be isolated by a slide that day, although future payment could well be sought if possible, and not too onerous. Or consider the plight of someone who carelessly breaks his back. Should we let him starve? But even in the case of a quadriplegic, it may well be possible for him to do nonphysical work. If not, though, to refuse to help would be cruel and unjust.

If people can provide for themselves, they should. But what if they can, and don't? The temptation to give priority to meeting needs of and for others without qualification is understandable. Needs, after all, are very important. How can we tolerate some not being met? as Braybrooke asks. To have needs unmet is to do less well than not only you can, but should. We should not forget responsiblity for meeting one's own needs, however. Although Braybrooke is willing to see needs unmet if persons irresponsibly misuse resources at their disposal to meet them (p. 75), he takes the apparently humane approach of preferring to penalize "in matters of preference only" those who choose to be loafers (p. 149).[9]

Here, though, it is appropriate to distinguish, not between needs and preferences, but between needs people can and cannot meet for themselves, and ones without which they will have a lesser quality of life and others in the absence of which lasting harm will be done. If someone squanders adequate shelter provisions, for example, then it is appropriate to require him to share accommodation or go into debt, but not to expect him to live under a bridge. Conversely, it is hardly respectful of human dignity to say that whatever you do, we will try to meet any and all of your needs if you do not do so yourself. Perhaps it is inconceivable to some that anyone would willingly not provide for himself. It is not so inconceivable if there are "freebies" - especially if presented as entitlements rather than charity.

Mill ("Subjection of Women", p. 567) refers to the misguided benevolence of rescuing people "from the disagreeable consequences of their own acts" which "saps the very foundations of the self-respect, self-help, and self-control which are the essential conditions both of individual prosperity and social virtue..." This is well put (even though he speaks of a tendency of women to demonstrate this fault).

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[9] Braybrooke rightly observes that claims others are wasting provisions are often made without evidence in order to evade giving help. But he seems to recognize, as we should, that they may be justified, and so we ought to rely on actual evidence and not simply act on our preferred assumptions.

Often people are better off meeting their own needs, even if it takes a considerable period of time for them to do so. Needs can even be seen as necessary. We need needs. Human development is a process of striving. Needs spur creativity. Also, attempts to meet them bring people together.

IV. **Are even limited needs unlimited?** It is fair to ask whether my argument in favour of a right to have some needs met will mean, in practice, that there will be no room for allocating wealth on any basis other than needs, since we may never be able to meet all of even a select group of needs. Consider especially medical needs, but also the "basic needs" of human beings in poorer countries, as well as the possibility that new needs are being created all the time. And even if we somehow could meet them all, if we were also to allow for rights to unearned shares of certain social benefits as I have allowed, there may hardly be room for rewarding or compensating "desert". I find this to be an immensely important and difficult challenge - but also one that I may be able to meet.

One way out would be to define "needs" in such a way that they are generally met, that is, to rely on some kind of normal standard or average. Benn and Peters, for example, say that:

> ...the level of basic needs is settled by what most people in the community already enjoy; and functional needs, in the narrow sense [of provisions necessary to perform work, e.g., 'employment expenses'] must also be broadly satisfied already, if the functions in question are being fulfilled; it follows that there must normally be a surplus over and above a community's basic and functional needs put together. (pp. 169-70)

The more quantitatively inclined could take as poor or "needy" those who are defined as "low-income" using a formula such as one that has been employed by Statistics Canada. They are families which spend more than 20% more than the average family spends on food, clothing and shelter. (Consequently, in recent years the poor have remained as relatively poor as before in one sense, but are less poor in another, as the cut-off was 70% of income on the three items in 1959 but 56.2% in 1986 - "The meaning of poverty in Canada", editorial, Globe & Mail, 13 Jan. 1992, p. A12). This approach has the advantage of always finding that most people have their needs met (although it has the corresponding flaw of always finding many people to be needy, unless, maybe, the distribution of income falls within a fairly narrow range). And it may do well in taking into account what actually are needs, and the costs of providing for them, in particular societies. It fails, however, to give us a real sense of whether objective needs are being met. It could well be the case that the "norm" or average is inadequate; a society may have a poor standard of shelter. The average may, on the other hand, be far above adequate, and the relatively poor (or a good proportion of them) may have all their basic needs and enabling needs met. For these reasons, I choose not to go this route.

One of the biggest demands on resources comes from the need for medical care. If all other needs were met, would not this one still consume all available resources if we were to give priority to meeting needs? Even in countries with the "best" health care systems some people go without enough care. Also, if we consider the need for cures which have not yet been discovered, it seems impossible that enough resources can ever be devoted, given the occurrence of new diseases. And if we consider the needs for emotional and psychological health to be vitally important as well, then the case against allocations for non-needs would seem to be complete.

The last addition is unwarranted because often the best resources to meet such mental needs are from within the person and from personal relationships outside of the sphere of economic activity and public resources. There are real mental needs which it is fitting for public agencies to respond to, but there are others which it is not; and then there are what people may call emotional or psychological needs but which are actually conveniences and preferences.[10] Communities can, do, and need to decide on which claims for public support are valid, and which have priority (although their decisions may or may not be right).

In some places at some times there are not enough resources to attend to everyone's medical needs, although I suspect this is much less often than many people tend to think (especially if they were to be asked if all resources, personal and public, are being devoted to needs of some sort). But clearly there are enough resources some of the time if they were allocated well, and if those responsible for wars and famines and other catastrophes assumed their responsibilities. The more difficult matter is the need for cures (see Braybrooke, pp. 293-306).

One option is to say that we do not need remedies which do not yet exist; we cannot need anything which is not real. We will need a "vaccine against dental decay" (see Braybrooke, p. 244) or cancer once it has been discovered and produced; we cannot need it before then. I am not satisfied by this. Even though there are many illnesses and conditions without cures and controls at this time, it does make sense to speak of a real need to conduct research into finding them. Maybe we should do as Braybrooke does, then, and say that there just is no satisfactory answer in sight; we cannot give strict final priority to needs with respect to medical care. "The concept of needs in fact discriminates better policies from worse ones and gets good things done that otherwise would not get done" (301). But this does not satisfy me either. I think that I will have to leave this issue unresolved, although I think that we can make it somewhat more manageable by noticing that the need for cures has to be weighed against other desirable objectives such as the meeting of other needs and preferences.[11] We can also make it more manageable by noticing the importance of prevention. The focus should not only be on cures but also on preventing preventable instances of disease by promoting healthy lifestyle choices, sanitary conditions throughout the world, curbing pollution, perhaps planning population size and so on, and by holding accountable those responsible for the ill health of others. I do not know enough to be able to say whether there is a law of diminishing returns with respect to medical research, but that, too, could enter into the picture. In any case, if we do not know that we are obligated to devote all "spare" resources to the endeavour, then we are obliged to respect the rights of persons which we do know to exist (although I am, again, uncomfortable with leaving to chance, private benevolence and the success of individual organizations devoted to treatment of and research into specific diseases, the relative amount of attention different diseases will receive.)

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[10] This has been illustrated recently in the province in which I write this; some are arguing that all abortions are "medically necessary" if we include, as they say we should, abortions which are psychologically and emotionally needed, and not only those necessary to preserve physical health (see, e.g., "Alberta must continue to fund abortions", editorial, Edmonton Journal, 1 Sept. 1995, p. A10). That some may be needed on grounds of mental health is one thing; that all are, is highly doubtful, unless we use such a notion of necessity so broadly that it should justify public provision of a great range of additional non-abortion services.

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[11] For example, we should not all drop all of our activities to attend to the greatest needs - relief from illness, poverty, war, and others - because full human lives consist of a wide variety of human activities which fortunately different people have different aptitudes for. But this, too, hardly seems completely sufficient. Should not basic needs be a priority for communities as well as for individuals, and mankind as a whole?

We also need to take into account new needs in medicine in conjunction with new illnesses. Fortunately, those are relatively few in number, and may be matched by defeats of old diseases. A similar observation is in order with respect to other possible new non-medical needs. I said earlier that I doubt that technology and social organization produce new needs; they simply re-create old needs in new forms. If I am mistaken about this, then whatever truly new needs there may be (although I do not know what they might be), it is reasonable to assume that old needs will also have been replaced, and dropped out of the equation.

If we were to conclude that there will always be unmet needs, we could perhaps console ourselves by taking a magic of the market view: basic needs are best met by encouraging production of inessentials and luxuries. That production results in the most wealth possible from which some can be skimmed to attend to needs, as long as the skimming does not become a disincentive.[12] If that were true, our problem would be solved. But I am not certain that it is true, and if true, likely to continue to be true. More importantly, if it is not a rationalization it is acceptance of a diminished notion of human motivation. We do better to look for answers elsewhere.

V.1 **The other side of economic justice - "earned" entitlements**. Concentration on needs as an integral feature of justice is warranted, but it is not necessary to have unmet needs for considerations of justice to be present (something which a Marxist may assume - see Shandro). Justice is also a matter of deciding who performs how much labour, and what those who do work are entitled to as a result, which may or may not be a payoff in material wealth. In fact, even in the presence of unmet needs, including during emergencies, arguments should be made for acceptance of some entitlements arising from work performed.

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[12] See Mill, "Considerations on Representative Government", chapter 3, p. 232.

Meeting of needs is only a part of distributive or economic justice. This is, in part, because not all of our obligations to others are "perfect obligations" linked to rights of particular persons. Consider whether it is the case that in particular economic transactions, say, between employer and employee or seller and purchaser, that the needs of all other members of the society, or of all of mankind for that matter, ought to be taken into account as an obligation of justice - or morality. If anyone does anything to increase his wealth, should he be made to answer for what he does for the needy or neediest, or be denied a portion or even all of the increased wealth even before he has a decision to make about what to do with it? The medical breakthrough example cited earlier might make us think that this is possibly so, but whether or not we granted the obligation in that instance, would we really wish to recognize it in all cases?

Perhaps you would recognize such an obligation. To each according to his needs, you may say. This, though, would hardly seem defensible with respect to particular transactions. The needier you are, the more you should get; the fewer and smaller your needs, the less you should get, regardless of the features of any economic activity you undertake. If meeting needs were so significant, why would the fact of doing anything be a factor at all? It would make more sense to say that there is no connection between activity or production and what you receive (especially from the consumer of that production), than to say that the person who benefits by your picking up of a leaf from his yard should reward you in consideration of your needs as fully as if you had built a house for him (whether that compensation be with consideration of his ability to pay or his needs and restricted to lowering the level of his wealth to yours). I am, of course, assuming that people ought to be able to make exchanges with one another, and not just work for and receive from the state. I will justify these assumptions later. I am not arguing, in any case, that there is no requirement for attention to need at a social or macro level. I hope I have already made clear my reasons for maintaining there is such a requirement.

V.2 **Need as a consideration in determination of earned entitlements.** If people should be compensated for doing work, for providing goods or services, as I will maintain they should, and if need should not be the criterion for establishing the amount of that compensation, should it be a criterion among others? Should a worker with six children and an aging parent living with his family receive the same pay for the same work as a single person who has not yet left home and does not pay rent? The compensator could choose to pay the first worker more as a matter of benevolence, but the second would have a basis to complain if it were just they receive the same; perhaps the employer should be benevolent outside of the pay structure, ensuring, nonetheless, that this benevolence does not reduce other or all workers' pay below a just level. I would suggest, however, that we may need further information, concerning, for example, the level of pay. If equal pay were more than sufficient for the first worker to look after his household very comfortably, there would hardly be justification for paying him more.[13] On the other hand, if it were not sufficient, other workers might benevolently accept giving him an unjust advantage. Or they might not consider some accommodation to be an injustice.

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[13] This helps to point out again that a society in which all needs were met would not necessarily be a just society for there would still be questions of justice - of just distribution or allocation or possession with respect to all "surplusses", for in this case considerations of justice would not cease either.

Still, I think that there are limits to what they should consider acceptable because once a differential attains a certain dimension, it becomes evident that the compensation is not just for work done; it has an added element which is improperly added at the discretion of the payer. Perhaps the answer, then, is to envision pay at ascending levels as is sometimes done. Discretion for the payer to compensate within levels is justifiable; elevating a worker to another level on the basis of need is not. This does not at all mean that the needier worker should just accept his lumps. He may need to look for other work which he is better at and which pays more - perhaps it is true that such a search would be not only unsuccessful but also a waste of time; on the other hand, some unanticipated opportunities are found or created through perserverance. Necessity is sometimes the mother of invention, and to reiterate an earlier point, invention or creativity is part of human fulfillment. Nevertheless, the worker might be unable to improve his situation. It may then be appropriately the discretion of society to respond to his plight.

VI. **The strength of non-needs rights claims.** Admittedly, there will be circumstances in which there are severe shortages, and emergency conditions prevail. In such circumstances private market exchanges may not be able to be conducted because the enabling social arrangements are not able to support them, and then everyone is to work for everyone. But even this does not transfer us away from individual natural rights and justice and into a world of utilitarian calculation. First, some rights that would exist but for the shortages do not exist, and so are not overridden, such as rights to use for oneself what one makes or the equivalent obtained in exchange. Second, even when those rights do not exist, there are still rights to proportionate shares of public recognition for the contribution made, and to not be made to contribute more than one's fair share (however that might be determined). People also have rights not to be made to surrender what they make or the equivalent to unjustified purposes, such as the aggrandisement of a leisure class which does not make its own contributions to the common good but is merely self-indulgent. And they have rights not to be made to work in inhumane working conditions which cannot be justified (e.g. ones in which they are humiliated, degraded, exposed to hazards to health that need not exist and so on). We should not forget, at any rate, that people working for themselves may make resources less scarce; we should not look at resources to meet people's needs and wants as a fixed amount which we then try to distribute.

People are better off when they are able to work some of the time for themselves, and they are entitled to do so when the most basic needs are met, and when they make their contributions to the collective welfare which is used in part to provide for further entitlements of citizens. Such situations frequently come into being. I know that these claims, and not a few of my earlier ones, may be challenged. I will offer further support for them in the following chapters in which I defend individual entitlements to economic desert.

Chapter Four: Individual Economic Desert and its Components

In this chapter I will argue that individual persons are entitled to economic rewards for labour they perform because they truly put themselves into their work, and because labour takes a toll on them personally. I will then propose and explain criteria of economic desert, providing reason to believe that it is possible to meet the challenge of those who claim that components of individual desert cannot reasonably be identified.

Establishing desert entitlements is important in itself; it is also important because it will provide one basis on which to limit unearned income. As I said earlier, showing that someone has earned something will usually show that someone else is not entitled to it (and its rightful claimant ought not have its value distorted). This still leaves open the possibility that people may be entitled to income they have not earned in other cases - such as income which is presented to meet needs, income which is a gift from its rightful owner, and income which is produced by chance.

I. **Defending Individual Desert**. In the previous chapter I spoke of personally unearned entitlements people have as members of communities, and argued that individuals only contribute to wealth creation that communities make possible. They cannot claim sole credit for what they produce. A critic may argue that I have conceded too much. Where is there any room for isolatable distinct individual activity after taking note of the social nature of economic infrastructure (broadly defined) and opportunity?

You might claim that my position suggests but understates man's existence as a social being. Consider Marx's view that:

> ... when I am engaged in activity which I can seldom perform in direct community with others - then I am **social**, because I am active as a **man**. Not only is the material of my activity given to me as a social product (as is even the language in which the thinker is active): my **own** existence **is** social

> activity, and therefore that which I make of myself, I make of myself for society and with the consciousness of myself as a social being. ("Economic & Philosophic Manuscripts", p. 86 - emphasis in original)

From such a perspective it is not necessary to maintain that man is always aware of himself as a social being; the affirmation may be that persons who are able to most fully realize their human essence do so as social beings. People may deny their social nature, but their very denial itself is a social product and a contradiction, a source or state of disease; individualism is a social fabrication.[1] People are collections of attributes which are social in nature, i.e. speakers of languages, holders of feelings, thoughts and beliefs produced by and in fact part of the social environment, performers of social roles, followers of social fashions or conformers to the norms of nonconformers. People are still individual persons in a sense, the sense that they are unique or quasi-unique configurations of social attributes. This view of man's social nature goes beyond a claim that people supplement their limited range of abilities and experiences through the vicarious enjoyment of those of other persons.[2] It is a claim that thoughts, abilities, experiences, etc. are both made possible in society and are social in nature. Yet you could argue in addition or instead that individual persons bring individual partial attributes to social activity (which economic activity is) and produce wholes which would not otherwise exist - like a cake. Truly human economic or productive activity is teamwork.

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[1] Other comments by Marx in favour of social or species being and in opposition to individualism can be found in, e.g.: "Economic & Philosophic Manuscripts of 1844", pp. 76-78, 83-91, 101; "On the Jewish Question", pp. 43, 46; "The German Ideology", p. 158 (all page numbers are from Robert Tucker, editor, The Marx-Engels Reader); (and re: the social character of labour) Capital, Vol. I, pp. 166-7, 1053.

[2] See, for example: Marx, "Economic and Philosophic Manuscripts", p. 88; Shandro, pp. 43-44; Rawls, A Theory of Justice, p. 529, see also pp. 522-5.

Such arguments fail to include important distinctions, and also overstate the case. There is not nearly as much teamwork in painting or photography as there is in multi-member team sports or building a building or rebuilding a city after a natural disaster or going to war. Furthermore, even in many if not all instances of teamwork it does make sense to raise questions of distribution or allocation. And in addition, to observe that there are elements of teamwork should not lead one to fail to see that that is not all there is, whatever fashionability use of terms like "teamwork", "organizational imperatives", "the good of the company" and such may have today or tomorrow in some "post-something" world (cf. Miller, pp. 300ff.).

I reject the view that human existence and fulfillment are only social in their makeup. People can transcend social influences and circumstances; they can exercise autonomous reason and have spiritual or cosmic or natural experiences. They can "commune" with nature, have private enjoyments (even using social creations), and interact with small numbers of other persons with minimal effect upon outside parties and society at large. Even though we need human society in order to be able to develop our human capacities, it would be truly ironic - and wrong - to say that we may not use or benefit from our resultant autonomy.[3] That "the free individual with his own goals and aspirations... is himself only possible within a certain kind of civilization" is no rebuttal.[4] Making possible is only making possibilities; it is doing that transforms the potential into the actual.

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[3] There is a parallel with foreign investment and aid. Some say that recipient naions are ungrateful if not morally wrong as well if they restrict or bar post-developed-stage outside participation, as if gratitude or tutelage ought to last forever. It is not uncommon for those providing assistance to get back at least what they have contributed, while contributing, anyway.

Moreover, the social may be only a means to tapping into universals, and it is these that enable us to bestow due treatment on persons. We respect people, that is, by recognizing what is the same in or about them as other persons and dealing with that in the same way. We should, within fairly narrow bounds allowing for small variation, react the same to a good deed or an artistic accomplishment of anyone's, and decry poor effort or evil deeds no matter who the agent is. This respect is individual in varying according to the degree of the universal present in someone's actions. Similarly, when Hegel says that goods are offered to universal purchasers (Philosophy of Right, p. 147), "the public", this enables the public authority to govern fraud, inspect goods and so on. There are universal or general or principled ways of acting and measuring, without differentiation, which are right and in the interests of all. Standards of particular societies are invalid or at least relatively inconsequential if they do not express and respect universals.

I agree that we can and should sometimes care about groups of people - and cultural traits - because they are our own, and because of what is truly unique about them, but this should never be more than part of the picture. Individual persons are valuable as bearers of universal traits and possessors of individual features; social and cultural attributes are not equal in importance - they are contingent.

All the same, I insist that a radically atomistic or individualistic account of human and social life is unsupportable. Much of human activity simply is social activity. Sometimes the boundaries are unclear. Watching a live play in a public theatre is very social. Watching a recorded film at home alone is much less so. (But talking to other home viewers later and writing letters to editors and to writers and actors and so on makes it more social again.) We can be clearer about other things which are social in their best forms, such as those things which we share with others, and in which cases the more others have of them, the more we have, such as certain pleasant, enjoyable and elevating experiences.[5] To see a friendship or marriage, for example, as a contractual relationship, and the other person only as a means to personal gain of some sort, is to denigrate what is shared and both persons' benefit from it. This is not to say that all individual activity and goods are of private concern only whereas all shared experiences are properly public and political. Education and entertainment should serve private and public purposes, for example. Marriage and divorce laws should look to private before public welfare.

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[4] Charles Taylor, whose words I borrow (p. 309), does not say that we owe everything to society. He actually begins the sentence from which I quote by referring to "the degree" to which individual development is socially dependent. Still, this degree is very large for him as, it would seem, is our indebtedness to society. See also p. 314.

Therefore, I do not want individual persons to calculate desert and compensate others for it all the time, nor do I see society as an instrument only, a set of institutions which is to serve private aspirations alone. I do wish to maintain that we only owe others and society our share in providing and not denying economic opportunities, and payback for social contributions to our activities. Beyond this, we are not obligated to support a certain level of "the economy" nor "economic growth". There is room, in short, for private self-interested economic activity or abstention from the same. It is both good and a matter of rights that people labour in private-interest activities through which they express themselves and for which they should receive the equivalent for use at their discretion - within moral bounds.

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[5] That Aristotle fails to articulate this in his excellent account of friendship (Ethics, Books VIII and IX) could lead a reader to perceive a rather atomistic perspective in his work - which is not so visible elsewhere.

It is absolutely crucial that it is understood that I am not arguing for selfish pursuit of self-interest and consideration of others' welfare only when it coincides with one's own. I am arguing that in conformity with moral principles which we do not choose, we are both entitled and obligated to promote our own well-being, and to respect other persons both as private and social beings. This is light years away from endorsing a selfish perspective which sanctions doing whatever we decide is in our own interests as individuals, possibly including manipulating, abusing and otherwise harming others.

Hobhouse writes:

> ... we all have interests - and not merely low and selfish, but quite legitimate interests, including our feeling for those near to us - which are not necessarily identical with the common good. Paradoxically enough, it is for the common good that we should have such interests, since the common good in the end does not lie in the suppression but in the exaltation of the personal life. What the common good requires of us is that in pursuance of these interests we should be governed by certain principles of universal application. (Elements of Social Justice, p. 124)

I concur, although I would not maintain that the private good is only to be valued as something ultimately coinciding with and enhancing the common good (if, indeed, that is what Hobhouse is saying).

Again, I do not fear accusations that I fail to see the social nature of all labour and the whole being of persons which should cause us to allocate wealth without focusing on work performed. Desert recognition and rewarding or paying in full does not reduce us to incessant means-ends calculations with others as mere one-sided instruments. (See Marx, "Critique of the Gotha Programme", pp. 530-531 on what he sees as the one-sidedness of economic rights.) It can in fact accompany and improve upon purely emotional caring and respect. Furthermore, some (and note that I say some) detachment is desireable. Things such as privacy and impartiality are not necessary evils needed only to mitigate the greater evils of favouritism, and to avoid the impracticality for employers, salesmen, doctors, bureaucrats etc. of dealing with "whole persons" in mass society. These notions linked to "alienation" are, in appropriate measure, positively liberating, allowing for not only justice and fairness but also a space for personal reflection, decision, growth, and evaluation. This is far from an endorsement of political and social reclusivity and denial of our interdependence about which we should want to have a say. It is, instead, an affirmation of the superiority of societies which do not function simply on the basis of ascription, tradition, affection, blood or race and so on, but give important places to choice, rational and "scientific" thinking, geographic and social mobility etc., societies which allow for the increased respect of the actions of individual persons, and therefore of the persons themselves, and the greater development of their capacities.

As is well known, throughout history, in different times and places, there have been different kinds of socially sanctioned control over objects which have been gathered or created by identifiable persons.[6] I wish to argue that in some important sense "ownership" of the results of one's labour should be recognized as a universal right. I do not intend to argue that ownership ever should be seen as absolute in the sense of conferring a right to do whatever we want with what is ours, nor to argue that individuality can flourish equally well in every kind of set of circumstances. I do intend to argue, nevertheless, that given similar circumstances (which when possible should be propitious circumstances, which we may have an obligation collectively to create), the same recognition of the worth of the individual should be afforded.[7]

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[6] See A.M. Honore, "Property, Title and Redistribution"; Morris Silver, "Men, Monkeys, and Morals: A Property Rights Theory of Social Justice".

However true it is, then, that individuals do not create completely themselves or any opportunity - no-one causes himself or most others with whom he deals economically to be born, no-one creates most natural resources etc. - it is still true that within circumstances that are given to them, they can sometimes create opportunities and wealth, and can (I will not say always do) benefit others. Even when persons do not create their own opportunities, they still can perform actions which are identifiable as those of individuals, and which have variable components. Time or duration, effort, skill, intelligence, risk to personal safety, damage or benefit to personal health, training, social contribution and so on are some of these. There is room.

II.1 **The task of identifying components of economic desert.**

The preceding considerations bring the discussion to the point where presentation of a fully elaborated argument for compensation, reward or other suitable recognition of merit or desert as one's due is in order.[8] Note, to begin, that the argument that people ought to receive what they deserve is not the same argument as one which holds that people ought to deserve what they receive. For clearly sometimes people ought to receive and are entitled to receive what they have not done anything to deserve, such as gifts, help with certain needs, a right to walk down a street (Evan's example, p. 48) and other rights (e.g. a right to not be tortured). I am not about to say that economic desert is simply one among a number of possible grounds of entitlement to economic benefits, however. I will be arguing that social arrangements ought to be so constituted that the deserving generally receive what they deserve. The economic realm is not analogous to sporting competitions in which it may make sense to say that an athlete who deserved to win is not entitled to the prize because the rules produced another winner (cf. Feinberg, "Justice and Personal Desert", p. 78).[9]

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[7] What do I mean by "the same" recognition. I am afraid that this may be one of those matters about which it may be difficult to be terribly precise. I would ask the reader to withhold judgment about whether I am sufficiently precise until he has encountered my exploration of the components of economic desert, and the limitations on property rights and the pursuit of wealth that I propose.

[8] The words compensation, reward, payment etc. may suggest very different things (see Feinberg, "Justice and Personal Desert", pp. 73, 86, 90). I do not intend to attach any great significance to the choice of one of these words or another.

There may seem to be insurmountable difficulties to making a case that people should be rewarded proportionately for their economic contributions. Common objections include the following: it is impossible to discern who is really responsible for how great a part of the production of a product in an economically advanced society, and it is similarly impossible to make an argument that factors such as effort, ability, and responsibility should be called upon to settle questions of distribution because both attempts would require introduction of complex principles which could not be other than the cause of endless disputes (see, e.g., Rashdall, pp. 46-47; Evans, p. 52). Such objections and others should not be accepted as obviously true; they need defense. I believe that careful examination of the issues of rights of property acquisition *and* wealth creation, and of the significance of the various elements of labour (ability, skill, time etc.) can result in a satisfactory response to the objections. The complications can be sorted out by making appropriate distinctions and attaching the correct weight to the different factors. And by reflecting immediately upon the fact that the complexity of a moral issue hardly precludes consideration of the issue as a real one in need of a solution. Moral controveries are webs of contending rights, interests, welfare, responsibilities etc., and even competing definitions of key concepts, as in the case of the issue of euthanasia, for example - which is hardly a less serious candidate for application of sound reasoning and valid principles because of that.

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[9] Even in sports, however, the rules perhaps ought to be constituted to usually give the prize to the one who "deserves" it. Then again, the one who can and does win according to reasonable rules may be said to be the one who deserves the prize - e.g. the performer or team which can compensate for bad luck. Still, the question remains: what should be the grounds of entitlement and desert in sports, and are they analogous to those in the economic realm? It is significant that in professional sports entitlement to a) titles and championships and b) money are often two different things. Even losers receive and arguably deserve to receive a certain level of income. As in economic life generally, it is not a matter of winner take all.

II.1a **Appropriation of natural resources.** If we are to talk adequately about just distribution of production, it is advisable to observe at the outset that in order to produce almost anything we must work on or with something we did not create ourselves. We must appropriate - although it is *essential* to note that appropriation is only *part* of the story.

What may we appropriate? That is, what may we take and use for ourselves (or others, if we wish) without incurring a debt to others? I think that it would be generally agreed, with reason, that persons have a right to take from nature that which they need to survive; no-one "normally" has a right to interfere. As Locke says, natural reason "tells us, that Men, being once born, have a right to their Preservation, and consequently to Meat and Drink, and such other things, as

Nature affords for their Subsistence..." (p. 327).

It is possible that our right to survive is circumscribed so that we cannot exercise it indiscriminately. We may not be entitled to go out into unoccupied territory of an organized society and take what we need, nor go to a farm and steal it. A just society may be able to rule out some methods of obtaining subsistence to make it possible for all people to find subsistence more easily or live fuller lives, but I will not pursue this topic here because examination of more specific scenarios and careful reasoning is required. More importantly here, it is certain that a just society cannot refuse sustenance without extraordinary justification; it cannot limit means of providing it to a very few means unless the circumstances of the society require it (e.g. war, famine). The key point is that there is a prima facie right which others cannot interfere with for their private advantage. As before, the community has a responsibility to ensure every person can live and well, using a share of the natural heritage to provide for oneself if possible.

An objection can be raised that some persons will appropriate beyond need and thereby control the opportunities for others to appropriate; they will require others to work for them to the detriment of those others. The wealth of all becomes the wealth of the few (through the institution of private property). This objection is misdirected. I am arguing that we are entitled to subsistence and to the product of our labour as individual persons, but not that we have a right to act only as individuals. Whereas a right to subsistence does not logically or practically entail a denial of private ownership of means of production, it does entail: 1) something other than outright private ownership of all means of production, and 2) payment of some kind to society to equal the withdrawal from the common stock. In other words, a society may permit working for others to gain subsistence as one option, but those marshalling natural resources have no claim to more of them than they need for themselves. Control if delegated is only delegated by individuals and society, not surrendered.[10]

Furthermore, in most circumstances, no-one can claim outright ownership of any "surplus" natural resource one has not created himself, or fully paid for in a transaction with somone who did have the right. To the extent that we deplete resources beyond what we need for survival to the disadvantage of others, to the extent that we leave less for others, to that extent we are obligated to make good the deficit. To some degree renewable resources are self- renewing, e.g., forests and oceans. To the degree that they in actual situations are not self-renewing, we do have the obligation.

We should note that there are other resources which we use which we do not create individually (although to some degree we create or develop them collectively) and those are human resources. I use this term not in the usual sense perhaps but to refer to all socially created goods, such as levels of skills and education, as well as social institutions and infrastructures. We are owed shares in these, as I argued earlier. We also are responsible for their replacement, however, to the degree that they are used up. We again have the obligation to leave "as good" if not better for others both because we have no better claim to them than other persons (of our own or all societies, depending on the resource), and because we have a positive obligation to others. We may have the power to take more, but no moral right to do so, nor any right to what is directly attributable to them (to what is created by human resources).

To restate my position, I am arguing for an objective natural moral right, a positive right going beyond non-interference to (at least) subsistence or the opportunity to provide it for oneself - which is owed to us by particular individuals (i.e. parents) and communities as moral agents who have brought us into being. That said, my argument is also supported by the absence of rights of those who would appropriate what we need - we have no duties to others not to provide for ourselves. We have no general duty to leave to others what is given by nature at the expense of our own survival. Those who would claim that we have such a duty, and that it is supported by a natural right of appropriators, have a heavy burden of proof. It is not met by arguments that those who appropriate more than what they need benefit others, giving them a right to it.

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[10] Some control may be delegated for a variety of commonly cited reasons. "Private owners" may be more efficient, more willing to experiment and to hire unpopular persons and so on. Cf. Nozick, p. 177.

Consider Locke's comment that someone who produces the yield of 100 uncultivated acres on 10 he cultivates gives the yield of 90 to mankind (p. 336). The cultivator may in fact "give" the extra produce to others, but more likely he will sell it. Is he thereby entitled to the 10 acres if he only needed two for himself (and his family?) even where others do not have enough land to work on to sustain themselves?[11] My answer is that the cultivator has no right to the raw materials of those other eight acres, but if the community decides that it is in its interests to allow him use of them, _then_ he is entitled to what he causes to come into being - that is, the harvest or something equal in exchange _minus_ what is owing to any labourers who assisted him, _minus_ an amount equivalent to that which society provided in the process, _minus_ the value of the additional natural resources.

As Sidgwick points out, if we allow for private appropriation of all resources, there will be some men who will be made worse off than if they could live off the land themselves: "men are sometimes unable to sell their services at all, and often can only obtain in exchange for them an insufficient subsistence" (p. 278). But in addition to this, all non-appropriators will be denied the freedom to choose whether to support themselves directly, and in what form to receive the goods of nature. Whatever consent we may envision will be hypothetical, after the fact.[12] And then if this total private appropriation is just, as Sidgwick says, then "the realisation of Freedom cannot be the one ultimate end of distributive Justice." Before becoming too concerned about such arguments, however, we should note that few if any people could actually live off the land through only their own efforts. Also, few people would actually argue that anyone could appropriate without owing some kind of debt to others or society. The issue then reverts to a question of control rather than absolute ownership.

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[11] Jeremy Waldron introduces the case in which someone may need, say, the yield of 10 uncultivated acres. By cultivating two he saves more of the land in common for others; the extra yield he may sell to others drops out of the picture of justification (p. 323). But how often are such scenarios actually the case?

Much more could be said - and better said - about the preceding. Questions concerning control of population, restrictive immigration policies, unequal natural endowments of communities in relation to global justice, and land claims are all very relevant. My modest concern here has been to simply draw attention to the very real limitations of any right to appropriate raw materials. The remainder of the argument which follows would not be significantly hurt by a denial of any such right, however limited. On the other hand, recognition of some kind of limitation of natural rights to natural resources strengthens the position of individual persons to provide for themselves using their own labour on that which is provided by nature.

II.1b **Rights arising from labour**. Now I can begin to argue for property rights which we earn through our labour. It is important to note that I wish to argue for a right to the product of our labour, or the equivalent in exchange, but not appropriation of natural resources through our labouring upon them. Therefore, I do not adopt fully Locke's labour theory of value. In brief, Locke says that we own our own bodies, and therefore our labour, and the products of our labour understood as anything (in nature) as altered by our labour. We make that with which we mix our labour our property (pp. 328-9). A critic (or a sympathetic reader such as Nozick as it happens) may dispute the last point. If we put a fence around a piece of land, how can it be said that we come to own it, and not just the fence? Does an astronaut who works a portion of a planet own the entire planet? Does someone adding his can of tomato juice to an ocean own all of it (assuming that it disperses throughout the ocean)? (Nozick, pp. 174-5). In all three cases ownership claims are invalid, as I believe common sense would suggest. However, we can add an explict reason for rejecting them - namely, the labour in question does not create (or for that matter, significantly alter) the land enclosed, the planet or the ocean.

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[12] These are my claims, not Sidgwick's.

I have already argued that our natural rights of appropriation without incurring debts are limited. This still leaves open the possibility that we are entitled to the value which our labour adds, whether in use or exchange. It is more than a possibility.

I do not rest my case on a claim that we own our own bodies. Some will deny that we own them, perhaps on religious grounds, perhaps on the grounds that there are no persons separate from their bodies. "I cannot own my body; I am my body" (and possibly more than that). The point is not crucial. What is crucial is to establish that we own our own labour. There are two grounds to establish this. 1. Once "of rational age" we use our minds to evaluate our world, to consider means and ends, to make plans and choose courses of action, and to analyze the result. Whatever else and however much more man is something else, he is a worker, a producer, a maker of visible things, situations, ideas and events; he "contemplates himself in a world that he has created" (Marx, "Economic and Philosophic Manuscripts", p. 76).[13] Individual persons as well as societies can choose to create products which would not exist but for their choices. Moreover, in a real sense, the products of our labour are extensions of ourselves. They are external manifestations of our being. 2. Labour, chosen and unchosen, affects people personally and directly. It changes their minds as well as their bodies. In short, what we do should be recognized as attributable to us. Sometimes we act as social beings; other times we act as agents of independent choice, but whatever we do is the activity of individual persons in some capacity. This is far from trivial. People should be recognized for what they are: unique individuals who think, plan, and act, not in general, but in specific ways. Proper recognition of actions notes the qualities of the actions, not just the fact that someone has acted (or thought, or chosen).

Lawrence Becker raises a challenging objection. He maintains that from one point of view if we own the products of our labour, then parents own their children (pp. 65-68). But then the principle collapses in contradiction because our children do not own the products of their labour - their parents do. He suggests dropping the principle or reconceptualizing it as derivative of a right to our own bodies. I do not think that either are necessary. In a way we do "own" our own children; children are the children of their parents and no-one else. Parents do have some rights with respect to their children as a result - and responsibilities as well. Ownership often includes duties, for that matter. In this, as in other cases (such as when we produce weapons, tools, ideas, etc.), what we create can determine what we may, must and must not do with what we create. It should be obvious that children have a unique status. Moreover, it can be argued that parents only partially create their children; children are the products of successions of gene transfers, of the environment and the children themselves as well because they develop or "unfold" and because they, at least once of rational age, can change themselves.[14]

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[13] L.T. Hobhouse makes somewhat similar remarks in Elements of Social Justice, pp. 122-3.

There is an important additional consideration. People are entitled to be recognized as the doers of what they do, yet this is not to say that we may do whatever we like or whatever we like with what we "own", with what is ours. If I have the money to hire an assassin and do so, I participate in a crime using my own money, but it is a crime. I have no right to do whatever I can do. Nor can I use my gun to kill someone just because the gun is mine. I do not even always have the right to do good. Just because I have made or bought superlative toys or clothes for the children of a friend does not mean that I have the right to give them to them. While ownership of our actions is an inescapable fact it would be absurd to say that ownership entails absolute - or no - freedom to do as we please.[15]

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[14] Claims of possession of persons or of relationships with persons are of a rather distinct nature, in any case. I may be someone else's friend (in fact, more than one other persons' friend), a son, a grandson, nephew etc. without being anyone's "property". The relationship of possession legitimately gives rise to entitlements and expectations of a number of kinds, but all of these are limited in scope.

[15] Hobhouse (Elements of Social Justice, pp. 151-2) says essentially the same thing, although he claims that restrictions of the kind I mention here are restrictions on personal conduct, not on rights of property. I fail to see the existence of a clear distinction of much importance.

II.2a **Arguments I am not making: Property as check against tyranny and as means of developing personality.** Private property has certain advantages, many will argue. Private property acts as a check against concentration of power, whether in a tyrannical ruler, a ruling class or a democratic majority. Mill, for example, states that in a communist society:

> The question is whether there would be any asylum left for individuality of character, whether public opinion could not be a tyrannical yoke; whether the absolute dependence of each on all, and surveillance of each by all, would not grind all down into a tame uniformity of thoughts, feelings and actions. (Principles of Political Economy, p. 361, cited by Gray, p. 273.)[16]

Mill's comments point to another supposed advantage (if not the same one from another angle): private property is necessary for the development of personality. As Hobhouse ("Historical Evolution of Property," p. 28) says: "[m]aterial things that a man can count upon as his own, that he can leave and return to, that he can use at his will, are... the basis of a purposeful life, and therefore of a rational and harmonious development of personality."[17]

We could include the exercise of specific virtues as an important part of personality, and say along with Aristotle that we need private property to practice liberality or "private generosity". In his words: "there is very great pleasure in giving, helping friends and associates, making things easy for strangers" (i.e. in being generous) "and this can only be done by someone who has property of his own"

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[16] See also C.B. Macpherson on Jefferson (p. 215).

[17] Consider also Rashdall's remarks: "Some liberty of action, some form of arranging one's own life in advance, some freedom of choice and some certainty that a man will experience the results of his choice are essential to the development of character; and this there cannot be unless there is some permanent control over material things" (p. 59).

(Politics, p. 64).

There is a notable problem with praise of such consequences. Whereas provision of private property proportionate to labour expended could produce these effects, so could private property granted or allowed without reference to labour at all. Property received as gifts or inheritances might have the same effect. Someone justifying property on the preceding grounds, however, might counter that this "problem" is not one at all. We can receive property in such ways or allocate it on a basis not proportionate to labour to those who work, not recognizing a right to the product of one's labour; this allows us to cut off the acquisition of property at the maximum amount healthy for the development of personality and leave any surplus "earned" by someone for the development of others (see e.g., Hobhouse, pp. 28-29; also Rashdall, pp. 54, 57, 59, 64).

While benevolent and even noble in intention, this kind of ideal utilitarianism is unacceptable precisely because it denies rights and the concomitant liberty to make choices and live with the consequences of them. Individuals have a moral right to act independently when they are not obligated to act otherwise; they have a right to provide for themselves and provide as much for use at their (albeit circumscribed) discretion as they are responsible for creating. They have a right, in short, to do what may or may not be in their own interest or the interests of others, or else it would make no sense to speak of a right.

My concerns are not satisfied by arguments that some kinds of proportionality are useful but not matters of rights. To argue that tying returns to the worker to his work encourages him to do good work, be industrious, plan ahead and use wisely what he earns, perhaps to the end of developing character, is not to recognize that what belongs to the worker is to be his for his purposes. This is, again, unless the purposes are dictated by moral obligations, and in that case, he is still to receive credit so that his moral debt is not inexhaustible.

The further development of character may follow as a result, and this can be a pleasant bonus, but we fail to respect the liberty and dignity of a person if we take control of what is his in order to make him a better person. The development of character is a responsibility we should meet using other resources; once someone is in a position to make choices for himself we fail to respect that person if we usurp his liberty and his expression of himself in what he does in order to impose external purposes, however well intentioned we may be.

II.2.b **Another argument I eschew: Property as symbol of social recognition.** It should be clear, too, that I am not arguing that labour should be "rewarded" proportionately because relative payment is seen as a social evaluation of one's worth. The idea is not totally inappropriate. The sequence should be in order. Social estimation should follow, in part, the worth of one's activities and not vice versa.

II.2.c **Property as foundation of capitalism.** I am also not defending private property as a once necessary or still necessary component of a capitalist economic system.[18] In addition to earlier comments, note first, whatever anyone or any business may have successfully claimed and had protected by law, the only property I am defending is that to which persons have had a moral right. Second, any rightfully claimed property such as "capital" which is used in such a way as to benefit others, e.g. by "bolstering the economy" because someone has an incentive to produce goods efficiently (the incentive being the earning of profit on production), is not rightfully owned as a consequence of the productive use to which it is put. But as before, the ownership itself may be partial. I owe a debt to society for resources I have not created myself and which are not self-renewing. As well, I cannot use what I own in any manner whatsoever. In fact, depending on which moral obligations exist, I may only own something to the extent that I am credited with using it for the morally required purpose. The capitalist uses capital which is not his own as an agent of society, or he uses his own capital - these facts justify his use of capital. His use of capital does not create his moral claim of ownership.[19]

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[18] C.B. Macpherson (p. 214) says that "property as exclusive, alienable, 'absolute,' individual, or corporate rights in things was required by the full market society because and in so far as the market was expected to do the whole work of allocation of natural resources and capital and labour among possible uses."

III. **Components of the value of labour**. Having set out the general parameters, it is now possible to assess some of the factors that can be used to evaluate the worth of labour. Please keep in mind that I am not examining the worth labour is thought or taken to have and appears as actual "exchange-value"; I am exploring the value labour has and which ought to be paid for, compensated, rewarded, etc.

III.1 **Compensation for education and training.** I am arguing that the equivalent of the value of labour performed for private parties should be given to the labourer to the extent the labour is his, although not necessarily by the recipient, even if that should usually be the case. Before discussing calculation of value, however, the task can be made easier by noting that what might be considered as a constituent element of value or desert can be profitably separated from the calculation. I am referring to costs incurred enabling one to perform an occupation, or incurred during performance of it, and which people often believe ought to be compensated. Caution is necessary here because it is easy to overestimate the amount of compensation which is owed.

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[19] The fact that a capitalist, mandated by society to use capital which he collects and directs for it, uses capital not his own poorly or well may determine whether he is to continue as its agent, but here a moral right of private ownership of property is not at issue.

Consider first the preparation for employment, i.e. general education and vocational training. On the one hand, perhaps some small amount of compensation should be paid for costs incurred because society ought to enable its members to be able to make social contributions and live fulfilling lives as individual persons and because consumers of trained labour benefit beyond what they could expect from the performance of the type of labour in question without the training. On the other hand, education, especially when broader (e.g. a liberal arts education), is a benefit to the student while a student and later. Second, if there is a good argument for compensation of "opportunity costs", i.e. costs of foregone opportunities, I have not heard it. When we make a choice we choose to work with the benefits and drawbacks of our choice; we cannot claim a right to the benefits of the choice we did not make. (Compensation for benefits denied by imposition of a "choice" is quite another matter.) And third, the value of the good or service produced after training may (or may not) be higher because of the student's or apprentice's training and then that value of the good or service should be paid for, not the training itself. That can be significant "repayment". Still, if others manage to produce goods of equal value through a self-training process or extra work or special aptitude, then they deserve the same, not less. (Effort and ability naturally warrant further discussion; that will follow shortly.)

III.2 **Compensation for idle time**. In a similar vein, someone may wish to argue that the seasonal nature or the limited duration of a career should be compensated; i.e. someone should be paid both for work done and time spent not working.[20] This is an acceptable expectation when the work done truly does preclude the worker from performing other work. Very often this is not the case, however. People are generally not capable of performing only one type of task; claimed incapacity can be a matter of pride or laziness or fear of failing at the unknown or stubborn insistance upon an imagined right to do only what one prefers to do. In other words, unless there is demonstrable incapacity because of exhaustion of physical and mental abilities due to the requirements of a career, or in the case of seasonal or on-call employment, unavailability because of the need to be available, there is no argument. The situation is less straightforward when other complications are added, such as possible failures of governments to manage economies so that "suitable" employment opportunities exist. Nonetheless, we should not be too quick to conclude that individual persons cannot do more work for themselves while idle than while employed by someone else. Often they can. Gardening and home and mechanical repairs are just a few examples. Consequently, need for external sources of revenue may be less, and costs of idleness less.

While discussing time it is worthwhile to observe that it can also be a legitimate factor in nonseasonal employment. Someone such as a security guard or a salesclerk may be paid for time worked as well as "not worked" because he cannot make himself unavailable to perform unscheduled duties. But there are a number of other ways of looking at this. The person while performing sporatic duties is working by "holding down the fort". Or the person is working unusually intense short spurts of labour with the remainder of the time necessary for recuperation. Ultimately, though, whatever compensation may be warranted for unavailability, this must be reasonable. When compensation for idleness exceeds that of pay for actual work, the allocation of tasks is quite likely suspect.

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[20] Cf. Adam Smith, Wealth of Nations, pp. 92-3.

There is a danger that an employer will want to claim that he is paying someone for doing nothing in the situation described above. The danger here is that the employer will add work and not pay for all that is done, ignoring the intensity of the work in spurts.

Why is compensation for time (i.e. lost opportunity) acceptable whereas that for "opportunity costs" of a student are not? The student is not surrendering his time, his opportunity to do something beneficial, whereas the on-again off-again worker is - to the extent he should be compensated - unable to do something else worthwhile.

III.3 **Compensation for harm, danger and unpleasantness.** In general, compensation should be for loss of earning ability and to make good "damage" done. If damage is irreparable it should not be allowed to be part of an "economic" or any other activity, and should be liable to civil and/or criminal penalty as opposed to a licensing fee. Some elaboration is required. Work which is inherently harmful should not be performed; if it causes irreparable harm, or is likely to cause such, the product it may produce should be foregone or produced in another way. In a rare case in which such work must be performed, such as the cleanup of a radiation spill for which adequate protective clothing is unavailable, then the work should be voluntarily undertaken as a matter of optional benevolence. If someone is forced into it by an employer or a state of a poorly managed economy, then all damages should be paid, including loss of earning power, and honour conferred (because of the nature of the work). In cases in which harm is not intrinsic and avoidable, then the employer should be fully liable. If a worker who is not as able to handle the risks of a line of work as the average worker performing it knows that he is not and deliberately withholds that information from the employer, then the onus shifts. Consider the case of someone who has difficulty working heights.

Work which causes reparable harm, such as temporary illness, stress and anxiety or unusual fatigue, is permissible and should include compensation whether the harm is usual or not because the effects are due to the work performed. Again, however, if someone more liable to succumb to such ills than usual voluntarily assumes such a position, then at least part of the onus shifts (depending on the cause of the trigger - e.g. employer negligence, the unavoidable, etc.) Someone is not entitled to full compensation, in other words, if he decides to impose unusual risks on himself, that is, if he knows or should know that others can usually perform the task without the same degree of risk. The worker in question can in effect pay to do (i.e. forego compensation for) what perhaps in one sense he should not attempt to do.

The question of compensation for work which is unpleasant can be seen in a similar light. If someone finds work unpleasant which most others do not, and voluntarily chooses to undertake it, the case for compensation is weak. But is there ever a strong case for compensation for unpleasantness and why? Some unpleasantness may be more a perception caused by social prejudices than something which is objectively present (e.g. garbage collection, meat cutting, assembly-line work?) Yet the stigma may be a real loss for the person doing the work, and so until such time that the irrationality of the perception is overcome, compensation may be in order. If the unpleasantness is eradicable it should be minimized if not eliminated. Be that as it may, there is without doubt unpleasantness which has not yet been eradicated and other disagreeable elements of labour which never can be. Some work in nursing homes, funeral parlors, medical laboratories and hospitals would fall into this category; more arguably so might some work associated with financial institutions and loan collection.[21] Only to someone suffering from a lack of humanity would it not be greatly unpleasant to tell someone of a loved one's death or fatal illness, or about financial calamity. Two plausible possibilities follow. We should consider the unpleasantness or "dirtiness" of some work to be something which ought to be compensated in some measure, especially when the effects are intense and of long duration.[22] On the other hand, we might see those effects as constituting a portion of the worth of the labour in question. In this case, I do not know that it will matter much.

III.4 **Making distinctions of quality and quantity**. What, then, is the worth or value of labour? It would be far too simple, and erroneous, to suggest that it is the same for every type of work, with justified compensations as the only reason for income inequality. In other words, I reject the position that there is or should be an overall equality of payment when compensation is factored in (cf. Adam Smith, pp. 89ff.; Dick, p. 272). I also reject a second position that all work is essentially equally important or valuable to others or society. (These two positions differ in that compensations added to payment for work viewed from the latter perspective could result in overall inequality.) My discussion of labour value will make apparent how my view diverges from the first perspective. The second view warrants a few preliminary comments.

It is clearly the case that in most if not all societies some activites are paid for which are not beneficial, some of those being positively harmful. It would strain credibility to claim that all activities serve some useful function, including all forms of prostitution and selling of substances liable to abuse. That would be to claim or come close to claiming that all worlds are the best of all possible worlds. But even if we put harmful activities aside, the position fails. It might seem to succeed when it is argued that society, or "the economy" as an orderly interdependent functioning unity, and the members of it, cannot function without the performance of all contributing tasks. Doctors cannot perform without cleaning staff; writers cannot write without loggers (assuming what they write will appear on paper); leaders cannot lead without communications and communication equipment makers; just about everyone needs clothes and people who sell or otherwise distribute them; and on and on. Note that at most this would be an argument for equality of payment for work between professions and not within them (as soon will be apparent). But it does not succeed. Some work simply is more indispensable in most if not all situations, e.g. that of a general practitioner compared to that of a heart surgeon; that of a newswriter or conveyor compared to that of a poet or spice merchant. This does not necessarily mean that the more indispensable is more valuable; only that you cannot build a case on the complete interdependence of functions and so you would have to argue for equality on some other basis.

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[21] The arguable might concern the necessity of the tasks rather than their unpleasantness, if that be not too unemphatic a word.

[22] The short term aches of physically demanding labour may be disqualified by the long term benefits to a worker's health.

Even given interdependence of functions, it would be necessary to consider level or quality of the work of those performing the functions but there still would not be reason to argue for equality of remuneration for comparable levels of excellence. You might argue that different levels of well-being, of material wealth, are necessary for proper performance of different stations, whether as a rule (see Benn & Peters, pp. 168-9; Hobhouse, Elements, pp. 110-11) or for exceptional cases. I would rather argue that some work is more deserving of higher pay in part because fewer people are capable or have chosen to make themselves capable of performing it than other work which more persons could do at a given time. In short, there is a prima facie case for higher returns for necessary work than for non-necessary work, and, as well, for higher returns for more as compared to less necessary work. Remember, though, that some persons may perform only some necessary work along with other unnecessary tasks; others will provide only superfluities - which still have value, but lesser value. And the value of the product of labour will not depend only on its usefulness for the production of other products.

I can make my argument clearer by expanding upon elements of my position. It is useful to note that the quality of different qualities can vary - there can be poorer and better works of music, for example, but deficiency can go only so far before the quality disappears altogether and the "music" cannot be called music. More importantly, quantity can vary. Given a degree of quality in the nature and level of performance of a task, it is possible to add or multiply the number of times the task is performed; that is what I want to emphasize. Consequently, someone who makes ten pairs of shoes has created more value, i.e. his labour is more valuable, than if he had made two pairs of the same quality. A doctor who treats well four kidney stone problems of average difficulty has done more than someone who treats one. (This is not, of course, an argument that doctors should treat as many patients as possible because quantity can result in a dimunition of quality or even the production of harm.) The point is that more quality is more valuable, and the producer(s) should generally receive more in return. In this manner more of a lesser quality can be worth more than less of a greater one. Supposing we could attach numerical values, 100 products with a value of one apiece would be worth more than one product with a value of 50. This is certainly not to complete the picture; it is to bring attention to an important part of it.

III.5 **Responsibility**. Quantity is what might be called a formal factor as opposed to a substantive one. It is nevertheless a real one, and one which has universal application. The same can be said of responsibility. Suppose that there are two procedures producing the same quantity of the same quality of good or service. Someone working in Operation A has more responsibility than someone else in the same operation, or the person in Operation B with the same title. That first person has a valid claim to receive more on that basis. He either produces more value directly himself or must see to it that others produce enough. This person does not deserve more if he is given responsibility for something for which supervision or control is not beneficial; the key is the difference in the value of the product that would result with and without him. In a very real sense, then, responsibility is not even really a separate consideration. To the extent that a person and his labour is "responsible" for the production of the part or a whole of a product, he is entitled to the equivalent.

David Miller argues that responsibility is not always a ground for payment because "one man may find decision-taking stimulating, another may find it exhausting." He adds that "the costs associated with responsibility, if they are costs, go hand-in-hand with the benefits of exercising power, of being one's own master, and so on" (p. 113). Inasmuch as these comments speak to the question of compensation, I can only refer back to what I have already said. A worker who does not deal well with exhaustion or stress should not wittingly take on what will make him experience it unless willing to forego compensation. The other comments on reparable and irreparable harm also apply. The matter of "benefits of exercising power" is possibly a separate concern from the point of view of democracy - who should decide. But that does not negate the conclusion that legitimately exercised non-political power should be rewarded for the value it adds.

III.6 **Effort**. I do not place effort in the same category as quanitity or responsibility although the desire of some to view it as very important is understandable. I do not understand, however, why some people would present effort as a candidate for the major criterion of desert (cf. e.g., Sidgwick, p. 283; Hobhouse, Elements, pp. 99, 121; Slote).[23] The observation that effort may be something in the person's control, whereas the outcome of one's effort may well not be - it is or may be a matter of luck - is significant, and a matter I will take up at length later. But it seems to be more of a tool to use in discrediting reward for results than for establishing grounds for paying for effort. I wish to discuss possible grounds in favour of effort here.

Effort should count in our estimations of character, especially with regard to particular actions to benefit private parties and the public; it should not usually count with regards to non-benevolent and non-obligatory labour. It is largely irrelevant. What is relevant is what one attempts to produce, and success in the attempt. If someone tries very hard to produce something which is essentially useless, the labour is useless (except perhaps in improving the worker's health and understanding of some work process and so on - benefits which are inalienable and cannot be exchanged). If someone has to apply extraordinary effort to successfully produce something which is useful, then that person deserves no more than the person who needs to make very little effort. Effort simply is not the measure. A person has a responsibility to himself to direct his effort where it is usefully (if not best) directed; others have no responsibility to make up for that person's poor judgment - unless they have coerced him, failed to assist in ways required, or he is in dire straits.

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[23] These writers are no doubt commenting on the factors identified in debates which other persons have been participating in. But this would only been a partial explanation of the seriousness with which they take the presentation of effort and "results" (or "success") as the two main candidates of desert criteria.

We may wish to encourage someone to persevere at doing something which that person will eventually be able to do usefully. But this is not a matter of just payment. Similarly, we may wish to reward effort because we wish to encourage effort as a character trait. We might think that the point of economic justice is to respect agents who labour as autonomous agents who express themselves in their choices (which is, I have argued, a sufficient support but not a necessary justification - since unchosen labour also effects persons) and therefore it is consistent to reward any extra effort or at least give something in return for it, regardless of what it produces.[24] But is it a sign of respect to reward someone for doing what one or others could do better, or to reward someone the same as if he had done better? I do not think so. We may wish to overlook results on one or two occasions because we sympathize and empathize with others, for we know that we too have tried to perform tasks which have not turned out well. It is difficult to admit sometimes that what we have done has been in vain, or at too great an expense. We should not deny the truth about ourselves or others, however. To do so is neither obligatory nor helpful; indeed, it may be foolish or condescending. Nevertheless it may well be desirable to reward effort in general which is transferable; i.e. we may reward someone who seems to try hard at whatever he does because we expect he will try hard when doing what it is worthwhile for him to do, whether we are a parent or employer, but that too is not a requirement of economic justice - the beneficiary cannot be said to deserve a reward for effort as a component of the worth of a particular act of labour but only, perhaps, the chance to be deserving in the future (and the future deserts when earned).[25]

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[24] George Sher (p. 125) seems to be thinking along these lines. His comments are in the context of hiring practices, however.

Effort does enter into the debates surrounding economic justice in another way, a far more important way when it is introduced in the justification of payment for ability or talent. Such payment is justified, some argue, because some people choose or intend to and do make an effort to develop and use their abilities for productive purposes. The fact that someone somehow makes an effort, though, is important only because of what can be said about choice and intention; self-development or possibly the product produced. The notion of effort as something new and different in this context is without basis, and so I shall not consider it separately.

III.7 **Time, usefulness, and marginal utility and productivity**. My central claim is that a person is entitled to the product of his labour or the equivalent if it is alienated. The value of the product determines the worth of the labour - and not vice versa.[26] Quantity of valuable labour and "responsibility" for its production are factors which must be included in the calculation. It is possible to develop this principle somewhat further by expounding upon the way in which the calculation of the worth of labour is to be made. Worth of labour is to be measured by determing the amount it contributes to the production of a product which is useful to someone. There are two determinations to make, then. The worth of the product determines the worth of the labour, but not the proportionate contribution which the different elements of labour make, be they those of different current labourers or past labourers or the contributions of government and society. So we also need to calculate contributions to the creation of something useful as well as usefulness.

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[25] We would have to look at who would be most deserving in and the circumstances of an actual hiring situation. The morality of hiring practices is a separate issue in any event. The point here is that effort is not a relevant factor in determining justly what someone's labour is worth.

[26] Cf. Heilbroner (pp. 115-16) re: Jevons, The Theory of Political Economy - "the value of labour 'must be determined by the value of the product, not the value of the product by the value of labor.'"

Time might appear to be an appropriate measure of usefulness. An hour of my time is worth an hour of your time, provided, presumably, that neither of us wastes time when working for another, and presuming, perhaps, that we want to or think it right that we exchange equivalents. Note that we can adopt two different approaches here. We can say "one unit of my time is worth to me what one unit of your time is worth to you". Or we can say "one unit of my time worked by me is worth to me what one unit of your time working for me is worth to me". The first formula cannot be taken seriously if dependent upon subjective evaluations of the moment, for surely people are mistaken some of the time about the usefulness of the activity to which they are devoting their time. Objective evaluations would produce a recipe for "economic" equality. The problem, however, is that we need to figure out what is more and less useful for someone to do with his time, but once we realize that, the fact becomes apparent that time spent is not the measure, but the value of the activity on which time is spent. Furthermore, not all activities are equally valuable, at least for the purposes of exchange - some people choose to do more valuable things, and some people are able at a particular moment to do more valuable things. As a result, the second formula is unacceptable as well. What you do for me in an hour may well not be as useful to me as what I could do in an hour; of course, it might be more useful. The formula does make sense when two parties do something equally valuable with their units of time, but then the assertion becomes rather meaningless except with respect to tasks both parties can perform equally well but one desires not to - e.g. "unpleasant labour".

The appropriate search for the basis of value truly consists of a search for usefulness. "Exchange-value" of labour should be the same as "use-value". This may appear to be folly, especially if in an exchange or commodity economy "labour power" is a commodity, and it and not labour is paid for, as Marx asserts, or, to put it otherwise, the labour market is independent of the market(s) for goods produced by labour. Even if it is true in many actual societies that the value of labour is not determined by the "value" or usefulness of the product but by "the labour market" instead, however, that does not preclude the possibility of paying for the worth of labour even in capitalist societies. (If we consider employers and managers of labour to perform some labour to whom a return is due as well, we would/could see capitalist societies as coming closer to realizing this objective than we would otherwise.)

This may be difficult to see. Is it not the case that the two determinations (of the value of products and of labour producing them) are and must be distinct in economies in which supply and demand play an important role? These objections might also be raised: in exchange usefulness of labour is often not the measure of wages because payment is for marginal productivity. Also, the value of products is determined by supply and demand, and in turn, supply and demand for products are determined in significant measure by accident, nature and manipulation, including monopoly practices. Therefore, the worth of the product will not depend on its usefulness - how can the worth of labour, depending on the value of a product, be a determination of usefulness?

Let us consider this one step at a time. First, note that the value of goods and services is not something we can fix in the abstract. We need to take into consideration both the context and the availability or quantity of the item in question. A snowmobile is more useful in the Arctic than at the equator, a telephone is more useful in a sparsely populated area or for an immobile person. An answering machine is only useful if we have telephones, CDs if we have CD players. Also, the number of the item available affects the worth of production of additional units, whether additional units of something produced by an immediately collaborative effort, or the provision of services by another entrant into a line of work or profession. Not every additional unit is equally valuable or valuable at all - in any significant sense. The value (I am deliberately not using the word "price") of a product can vary with quantity. This is the idea of marginal utility. Consider holidays, fat in one's diet, caffeine, or pain relievers. Not each unit of these is equally valuable. The first ones, or those that come after the first, may be of most use or benefit; after a certain number the benefits decline, and additional units consumed may even become very harmful. This idea has merit for individual persons; it also has merit for a society. To produce more of a good or offer more of a service than people need or rationally want, and to go on doing so, is not to do anything useful. To produce more which people will buy at a lower price is to do something useful, but to lower the value of the labour per unit. Otherwise put, to offer more of something which is relatively plentiful is not as valuable or useful as to offer more of the relatively scarce.

This is not to say either that the idea of marginal utility works for all goods and services (some of these may in practice never be offered in such quantities that their value declines) nor that actual market transactions always provide adequate determinations of the usefulness of goods and services. Actual markets may fail to evaluate all components of usefulness; they may fail otherwise in distributing costs proportionate to benefits received. I will leave fuller consideration of markets to the end of this chapter and the next one. The most important thing to note here is that we can make determinations of the usefulness of goods and services, and the fact that this may be something variable does not change the fact of the existence of the actual degree of usefulness of the good or service.

The next step is to consider that given a certain value of a good or service which is the product of the labour of a number of persons, we can calculate the relative contributions the various individuals make in producing it. Each person should receive in proportion to his contribution. How can I make such a claim compatible with the existence of labour markets? Do I need to maintain that there should be no market in labour (labour power)? and that labourers should not compete to lower or organize to raise wage rates (because if they do, their remuneration may not be proportionate to contribution)? Or that employers and government should not influence the size of the labour force in different sectors of the economy? I do not think that there are easy answers to these and related questions. It is sufficient to note here that workers and business may well take steps which are designed to, and do shift the relative remuneration different parties receive, and that is legitimate or illegitimate depending on whether the new distribution corresponds more or less closely to actual desert. Competition among workers which is based on quality of performance is quite a different matter; work which contributes proportionately more to the making of the product should receive more. (When the actions of workers and/or owners do not change their relative share, but change the price paid for their products by the consumers of them, we raise separate, distinct issues, not of primary concern in this context.) In short, workers should receive in proportion to their contributions; there should not be a free market in labour ("labour power") based simply on supply and demand of workers with the same skills who will produce the same output.

It is time to address the important objection that although I am assuming that relative contributions can be ascertained in a defensible manner, they cannot be. We can ascertain them, and use the principle of payment for marginal productivity to assist in doing so. Is this not both payment only for usefulness of labour added and unjust, if not something which it is absurd to attempt to calculate? First, no problems arise if the workers in question are carrying out only different tasks. In situations where people do the same work it would appear to be the case that additional labour which it is no longer profitable to hire at the same rate is simply not hired, and that is how the principle is applied. But should the rate not be the same, and additional labour hired at decreasing wages before no more is hired? Presuming extra workers could be found to work at such wages, would they not be unjustly treated, though, i.e. be paid differently for the same work? Back up, too, to consider workers whom it is profitable to hire at the same rate. Should they not also be paid according to their rate of marginal productivity?

Take this example, adapted from one given by Miller (pp. 107-108). A man is loading 6 sacks of flour an hour into a truck. A second man who can also load 6 sacks an hour alone joins him. Together than can load 18 an hour. If pay is ten units of money per sack, should the first worker receive 60 and the second 120? What if the first worker takes offense, quits, and is hired back as the second worker? Should he then receive 120 and the other 60? We could imagine a scenario in which there are 10 workers, the 10th adding the most marginal product, one quits, and everyone agrees that an already hired worker be treated as the new 10th worker rather than the inexperienced replacement: indeed, with the expectation that there will be a rotation of workers, pay could be varied according to experience - or equalized, assuming it would be equalized in the long-run anyway. Or we can imagine the 2 - or 10 - workers having been hired simultaneously. What if we forego these escapes?

It should be noted that in the example neither worker is loading either 6 or 12 sacks; presumably, given their equal capabilities, they are each contributing equally to the lifting of all 18 sacks, and should be paid the same. It does not do to say that the second worker is making the loading of the additional sacks possible as the second worker could no more do without the first than vice versa. We might want to consider this example as an example of the marginal productivity of having two workers, rather than of the marginal productivity of the second or tenth or any "last" worker (cf. Stigler, p. 116). In any event, the example has limited applicability because it is often the case that workers perform more than a single task; someone who is most "marginally productive" at one task may not be at another whether because of when he comes to the task (what number worker he is), or because of differential ability or both.

What if we persist with the case of a single task and posit unequal ability? It may be the case that someone who can load 8 sacks an hour alone, when working with someone who can load 6, will not increase the output beyond what someone who can load 6 will; the two will load 18. The method employed may not allow for one to add more to the output. Let us imagine, however, that someone with a loading capability of 8 along with someone of 6 together can load 21 per hour (which is what Miller proposes). How do we calculate and reward contribution? Do you a) divide the total in half so that each earns 105 units or do you b) divide 70 (the worth of the added production) by half, and pay 80 + 35 and 60 + 35 or do you c) maintain a 4 to 3 ratio (120 to 90) or do you d) divide 180 by two and give any surplus to the more capable worker (which in this case maintains the 4 to 3 ratio, but would not with an output of other than 21)? Answer "a" clearly has little to support it if we do not begin with an egalitarian distribution principle at the outset. "B" has no basis unless we make the odd assumption that the more capable worker somehow contributes his greater solitary effort and then only the equal of that of the other worker. Both "c" and "d" seem possible because they assume that both workers do what they can, and that is not the same. If we assume something else, then we change the dynamics enough to have to address other unintroduced issues (e.g. should a worker work to the best of his ability if others do not do so in all or only certain circumstances?)[27] In short, one who contributes more to the production of a product should receive more, whatever we might want to say about the differing rates of marginal productivity and whether appropriate payment for that extra contribution would or would not outweigh differential payment for different actual work performed.

What should matter, then, is contribution to total output which is the addition of the average or minimum contribution (the choice among these is not crucial here) plus the additional increment which may be greater talent or diligence or speed a worker brings, or steps he takes to increase the productivity of other factors of production. The last mentioned may be with respect to some or all labourers involved in the productive process in question or with respect to use of machinery and so on. This is not to say that someone making a suggestion for improved productivity which is adopted can always claim the increase as his work alone since other persons may well be the ones enacting it and directly causing the greater output. Briefly, it matters who does something, not just who or what made that possible because the doer actualizes to greater or lesser degrees what was only possible, i.e. latent potential.

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[27] Miller does not introduce the case of workers of equal ability increasing production beyond what they can produce alone, but surely it is relevant because it points out that the situation is different from one in which one contributes more than the other to increased production.

IV. **The insufficiency of actual markets**. Now that I have analyzed various components of the worth of labour, it is appropriate to expand upon the nature of the usefulness of products. We can evaluate a product's usefulness by asking a number of questions. How long will it last? How many different uses does it have? How many repairs will it require? How many things does a use of it enable one to do? How much benefit does the use bring directly and indirectly to self and others, whether the benefit be meeting of needs or production of higher or lower pleasures? How much harm is unavoidable (e.g. production of garbage, pollution)? How much harm is probable? Do people have or can they obtain the training required to make good use of it (e.g. a car or a musical instrument)? As before, what is the climatic, geographical, cultural or other context? Finally, are equivalents or superior substitutes available?[28]

Upon reflection, I do not think that we can maintain that "the market" should decide on its own what has which absolute and relative values. The "competitive" market is sometimes an appropriate judge of price and quantity but only within parameters not set by it. These parameters include the location of demand and supply schedules or curves and their lower if not upper limits. As economists will explain, there is a difference between demand and quantity demanded, and between supply and supply available (or offered or quantity supplied). In other words, people do not simply want x number of goods, but x number at price a, y number at price b and z number at price c, and similarly people will offer to do x amount of work or provide x amount of something at pay a, y at b etc. (Price and quantity will be established at the point at which the two curves or schedules intersect.) The demand schedule, then, will consist of a set of numbers. These numbers are determined by various factors, as are those of a supply schedule. The factors determining "demand" (as opposed to a specific quantity demanded) include income, availability of substitutes, willingness to abstain, and taste. My point is that we should not simply accept as correct whatever people decide about the last three. Some things are more useful or necessary, should not be substituted for in some cases, and "taste" or fashion or ignorance should not be the judge. (People may also be wrong about which are "normal" and "inferior" goods, inferior goods being those of which people consume less rather than more with increased income - Blomqvist, Wonnacott & Wonnacott, pp. 51-52.) Consequently, I am saying what I assume most economists today would not say, namely, that there are better and worse demand schedules. Moreover, inasmuch as they are a result of unjust income patterns, they are potentially seriously skewed. For example, if a group of people has an excessive income and is willing to pay an amount disproportionate to the value (usefulness) of a good, it will drive up the price and alter its availability and desirability in comparison with other goods for other persons. Actual price is not the measure of objective utility; it is responsive to too many extraneous factors, including whim and preferences not thought through.

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[28] We might also ask, does the production of the item or provision of the service further the good of the community - if so, the value of which we are speaking is real, but the relevance of that value for individual entitlement is something that remains to be addressed.

True utility or usefulness is not determined by all subjective states. Admittedly, usefulness can vary from person to person and can sometimes depend on how useful a person perceives something to be, but the utility remains an objective fact about the person. I may need or be better off having something because I like eating four litres of ice cream a week or holidaying in places with epidemics, but that something is not necessarily the four litres of ice cream or holidaying where I prefer. We need to look beyond preference. In doing so we should discover that human beings do have many (objective) similarities; it is easy to overstate the differences by perceiving more preferences and even objective states of well-being than there really are.

In order to use supply and demand as the determinant of value of private goods and services, then, we need to consider, with appropriate caution, at a societal level, what people should want for themselves. Actual decisions are often flawed, whether or not we want to argue about which reasons do and do not belong to departures from the perfectly competitive market. People make bad decisions when acting impulsively, be that due to advertising or appetite, when influenced by the pressure and behaviour of others, when holding fallacious beliefs, when lacking important information, when coerced and so on. I am not saying that all such factors are necessarily deleterious. We may seek to obtain something to impress someone not worth impressing, or be influenced by misleading advertising to purchase something that we would not otherwise want, and in both cases end up with something beneficial. There can be many reasons for preferring people to make good decisions for good reasons, but the fact is that they often do not.

For whatever reason people make non-beneficial or unfair demands in the market, it must be conceded that they do make many of these. The picture of what ought to be is not completed with a correction of this fact (supposing it to be imaginable if not possible); we must also look at the supply side. People provide and withhold goods and services for many reasons, sometimes withholding "production" or changing products produced without good reason. They may not want to work for someone for reasons of race (or may be precluded from working for those reasons); they may object to reasonable requests of others - be they other workers, shareholders, managers, owners, government, interest groups etc.; they may want to hurt a competitor; they may want to hold out for excessive profit, they may want to "maximize profit".

What is a reasonable profit? What, indeed, is a profit? Does it include money put back into production? Is it only money kept by owners beyond that which they could have claimed as due to them for services contributed to production, i.e. some unearned increment? I cannot attempt to answer all related questions here. Let me repeat that in the argument that I am developing no-one has a right to take what is earned by someone else and put that into reinvestment. An owner can direct that portion of revenue which is owed to society back into the production process if society has agreed to have that happen. Considering whether there is any income which is unearned by anyone or anything and to whom it should go if it exists is a very major part of this project. Conclusions will have to wait until later. I am prepared to argue the following at this point. A person or company should pay a just price for his/its costs of production. In a sense this is to beg the question. It is to say that a just price is one that includes just prices for its components, for resources used. But this is very important. A price is not just if it was decided upon by under or overpaying suppliers. It is also not just if it is arrived at by taking unethical short cuts to save money, such as sacrificing safety of workers, polluting or using low quality parts without revealing that information to the purchaser, and so on. None of this is to say that ethical practices and just payments entitle someone to recover costs on all occasions. If a product is not useful enough to be worth more than the costs undertaken, then the seller cannot ask for more than it is worth, which may be very little or nothing.

Indeed, it is also necessary to reiterate that the worth of something depends on its qualities and its quantity. More quantity of something valuable is worth more than less; diminishing marginal utility only becomes a factor after a certain point, and that point may come early, late or not all all, depending on the good or service. Yet the value of a good may require that its production be regulated (whether by a profession, independent regulatory body of some type or government). This may be to ensure that it is worthwhile for those producing it to produce it of sufficient quality.

People should (be willing to) pay the equivalent of the value of private goods when they obtain them. In actual market economies this does not always happen because people will on the one hand pay or supply on the basis of sometimes mistaken notions of what is deserved (people will consider training, effort, substitutes, momentary pleasure to be obtained etc.) and on the other will, at other times, buy as cheap as possible and sell as dear as possible. The latter becomes a recipe for power plays, and a contest to see who can force whom to turn over as much as can be exacted, whether in direct confrontation or through manipulation of social structures and policies. These remarks apply to labour as well as capital. That these two conflicting approaches are acted upon should be well noted. Either can be overlooked, possibly for reasons of self-interest. It should also be remembered that there are more than two parties - labour and capital - involved. The consumer, and society as a whole, are also entitled to just prices and payments, which are not completely separate figures or derivative or leftover amounts. What is just for all is one calculation.

People may legitimately withhold labour and goods from sale when they have no moral obligation to provide them or to provide them for large numbers of people. Someone may decide not to offer so many luxury compartments in a train that it would have been more profitable to offer fewer. For example, 100 compartments might command a price of $100; 50 might sell for $300 each. In this case the seller could choose. If someone were offering the only service, he may have an obligation to provide as many places as possible as long as he receives a "reasonable" return. The point is, however, that whether or not obligated to participate in the market, there are prices which should not be charged or sought. There are both demand and supply schedules which are ethical and just. It is not the case that whatever the market will bear is a proper determination on its own. This means that withholding of a good or flooding the market, e.g. with cheap labour, in order to obtain a price which is not just (or to eliminate competitors) is unjust and immoral.

It is worth repeating that in situations of natural scarcity when adequate substitutions are not available that obligations arise which restrict the applicability of the principles of economic justice which I have been proposing.

V. **A cautionary note**. There is a real danger that in seeking to pay for economic activity on the basis of individual desert we will attribute the ability to persons to be deserving when they are not, and consequently allow or cause them to fall into physical and mental ill-health from material poverty. We should not cry too readily that the "disadvantaged" should earn their way into well-being because they may be disadvantaged through no fault of their own, and whether or not their fault, they may at some points be incapable of meeting basic needs (e.g. because of poor educational decisions in the past or substance abuse). Conversely, there is the other danger that we will incorrectly reach the judgment that someone is incapable because of present level of skills or social circumstances. It is not a favour to someone to support him when he could support himself, by developing and utilizing his abilities. Clearly we should exercise good judgment rather than see merit as never or always in play.

VI. **Conclusion**. I have attempted to show that there is a good case for individual economic desert. This case rests upon the fact the person who labours expresses and develops himself through his work, which entitles him to a claim of ownership to the product of his labour, although not necessarily to what he has added his labour. This ownership is not to be recognized simply for some instrumental value. This claim is supported by the argument that entitlement does not follow simply from conscious mental processes involved (from which it does follow in part) but also from the impact of the labour on the whole person, including his body. The mental, psychological and physical aspects of labour provide the various components of the value of labour which form the basis of economic desert.

Although it may appear paradoxical, I maintain that the individual is entitled to his own just economic deserts, but that these are dependent upon the value of the product which he does not determine and upon the social environment in which he is enabled to be productive. I will look at the matter of freedom of choice in economic markets and the advantages and disadvantages of impersonal markets in the next chapter where I will provide the possibly surprising conclusion that these markets presuppose equality of a kind that justifies limiting how much we can deserve, to add paradox to paradox.

APPENDIX: Private vs. public labour.

One of the extremely challenging issues which I have not addressed is the matter of entitlements for labour which can be considered to constitute "public service" in a direct way, as well as what that labour might be. The issue is both important in itself and because of the implications conclusions reached may have for "private" economic activity. I do not pursue the implications here, however.

We have positive duties to perform certain actions for our communities. We may be called upon to act politically or participate in the military or offer solutions to social problems of one sort or another either because we are members of particular communities (due to gratitude, having benefited, consent given, or a combination of these). In such instances we may receive payment of a sort in advance or throughout our lifetimes; specific payment is not in order for our doing of good. Yet I would suggest that general payment is not necessary either. We are not only obliged to contribute as a matter of fairness for having actually benefited or consented. Even if we suffer at the hands of others in our society, we still have an obligation, or at least it is in our interests to attempt to improve our society because we are part of it and it is part of us. There are other reasons: we can best improve the human condition by acting in particular societies, for example. It might be the case that we feel an attachment, we in fact belong to a particular society because we are attached to the same place that other persons are, and we have a responsibility to act in certain ways with whomever we may happen to live. I am not saying that we may not choose to change societies, nor conclude that a society has excluded us. I am saying that being a citizen or member of some community includes having duties. The performance of these duties only entitles us to a claim to be recognized as having carried out our duties, and freedom from liability to perform them endlessly if we have only "a share" to contribute, and perhaps honour.

When I speak of an obligation to participate militarily, I refer to an obligation of citizens. Those who actually participate whether as volunteers or conscripts in a war, or career military personnel, perform an important public service (if not furthering an unjust cause). The "responsibility" and need to provide for oneself are superseded by community service which should only be "rewarded" by provision for respectable living conditions and - to the extent that worthy individual contributions can be discerned - honour. Equitable return for all of one's labour is not in order: because it is an obligation for noncareer persons when an obligation to serve; because of the nature of the labour - community service. Perhaps those who contribute "more" should receive more payment, not as a purchase of their services, but in recognition of the lesser position they are in to labour for themselves.[29]

The distinction between labour which is a social contribution, and that which is not, is not a distinction to be used for what should be performed by public servants or workers under direct government control, and what should be performed by private citizens or in the private sector. People in positions in information media may perform socially vital functions which are best carried out outside of government control. It may also well be the case that valuable private functions are best performed under vigilant supervision of, or even by public officials, providing services, for example, which have become the right of citizens to receive. In short, the criterion of pay need not follow the work sector in which it is performed, especially considering the fact that many persons performing social functions may be simultaneously performing as many or more private functions. While I am maintaining that it is plausible to suggest that evaluations can be made of the amount of direct benefit to persons versus that of society as a whole, precise calculations are impossible and general ones difficult - but general ones do make sense, and can be responded to in appropriately general manners. Consider, for example, newspapers which serve the community and private interests (such as advertisers).

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[29] Joel Feinberg, Doing and Deserving, p. 90, says that to reward people who contributed "from public-spirited or disinterested motives" would be to encourage the opposite. But if a large part of the payment is honour I do not think that this would be the case or often the case.

I contend that we have neither an obligation to labour only altruistically, nor to work nonaltruistically by "serving the needs and wants of others through the market" as long as we are able. Otherwise put (and slightly altered), we have no all-inclusive obligation 1. to work for society, nor 2. to work to serve society by pursuing our own "self-interest" in the marketplace. (I am assuming here that self-interest need not be selfish.) Of course, these two propositions are quite different. My rejection of the first will not entail embracing the latter.

Duties to be contributing members of society can be met in a variety of ways. We can take part in public affairs and politics, the arts and letters, we can pursue community interests and so on. In other words, there is a general domain of social activities, and another of primarily individual activities (although some social activites are inconsequential for the community). We express different parts of our being in them. Selflessness is required of us as social beings. When we act as individuals we can choose (within limitations) what to do, or whether or not to do anything. We are entitled in this sphere to keep the product of our labour (with due payment for help we receive from society) or to exchange it.

A society can get along without much diversity of goods and with limited ranges of goods and services. A subsistence society, however, has little room for individual expression. Outlets for individual activity do not provide for the production of mere superfluities alone, however. Individual persons acting as such create things of value for themselves and others. The value can vary considerably, of course. But there is no obligation to increase consumption, boost "the economy" or create wealth through such activity.

In actual societies a distinction is not always made between socially necessary and beneficial activities on the one hand (call them public benefits or public goods if you will) and individual activities on the other.[30] When the distinction is not made, it is possible for people to sell their labour for public purposes on the same basis as for any other; it is possible to seek to make a social contribution by selling one's labour for a more or less (but probably less) accurate estimation of its value. In principle, however, a person should not be, or imagine that one is, "compensated" fully for such labour. Full compensation would make the use of the word "contribution" fallacious.

In summary, we have obligations to communities and individual persons, sometimes because we are in a unique position to be a benefactor, sometimes because we have dependents. When others are available and able to assume them we do not have obligations to take on particular tasks, even when something necessary and we are capable. We do not have a responsibility to be a heart surgeon if we are not the only person who could make up a shortage of one; we most certainly do not have a duty to be a championship golfer if we could train to be one, even if we could be the best. We can meet many of our obligations to others in a variety of ways, and just about all people have a variety of directions in which they could take their lives.[31]

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[30] I am not using the term public good in the way which might be used by many economists - e.g. goods whose use cannot be kept to assignable individuals, such as air, water, certain public exhibitions, etc. I am referring simply to any "goods" which benefit the community as a whole and benefit identifiable parties in only a secondary manner. Thus a distinction could be made between what benefits the culture or cultural expression of a community and that which benefits particular performers.

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[31] If we have an obligation to ourselves to do the one thing we can be best at, that is not an obligation to others unless we are in a unique position etc. Normally we should look at what we do with our lives as a whole, not just one part of it.

Chapter Five: Equality, Desert and Impersonal Markets

Up until this point I have been working to establish that there are sufficient reasons to support desert as a primary component of economic justice. I have argued that people should be able and enabled to provide for themselves, and participation in the impersonal market is a desirable means for them to pursue private economic activity for this purpose. This might lead some who are in agreement to conclude that I should carry the argument to the logical and desirable next step by developing the position that people are entitled to be as deserving as they can in market economies. Considerations of arguments for equality, reflection upon the legitimate purposes of impersonal markets, and awareness of abuses of economic inequality, even earned inequality, however, lead me to advocate limitations on deserving. This is so that people's wants and needs, including the ability and opportunity to be deserving, freedom of several sorts, and ability to receive what they deserve, are given their due consideration. (In the final two chapters I will discuss how the argument against excessive inequality applies to forms of unearned income.)

I will present this further argument by first examining the issue of equality of opportunity. I will explain in what senses it can be seen to require too much and, conversely, not enough, and offer what I see as the right form in which to adopt it. I will then look at the appropriate kinds of freedom to expect from impersonal markets and how they presuppose certain accompanying kinds of equality. After this I will look at other objectives and justifications of the impersonal market, namely, the satisfaction of wants and needs through one's own efforts, and how excessive inequality works in opposition to these, and other goods. I will conclude by discussing various ways of narrowing inequality, including inequality of desert. I will still argue, however, that people ought to receive what they deserve.[1]

I. **Equality of opportunity.** Many observers have commented that appeals for equality have often been arguments in opposition to existing practices more than arguments actually for something. More precisely, they have been arguments against grounds for treating people differently which have been identified as irrelevant and unjustifiable. This has been very evidently true of some arguments for equality of opportunity. They have been expressed as rejections of grounds which have excluded some persons from consideration in hiring. Race, religion, social class and sex, for example, have been identified as factors unrelated to work performance, and inappropriate as factors in evaluating who to select for workplace positions. The claim that they are irrelevant is often, although not always correct. Does it follow, though, that people employing other people are obligated to hire only on the basis of criteria related to the work to be performed?

Judith Jarvis Thomson raises the case in which the employer and the persons to be served by the employee are the same, such as the members of a club (p. 372ff). She suggests that in such scenarios, the employer has a right to employ whomever he wishes on whichever grounds he wishes, provided he hasn't made promises to people that he breaks. By the same reasoning it would appear that the employer could pay whatever wage he wishes as well. Some limitations could come into play, nevertheless, as comments by William Nelson suggest (although he made them in a different context): exclusion could be demeaning in a society in which discrimination, against women or minorities, for example, is widespread; exclusion from a job or type of job could mean exclusion from occupations which carry political influence with them; and so on (p. 174-5). Equally if not more interesting is the possibility that such restrictions on employers could well increase when the scenario is changed so that the clientele is no longer the employer himself but members of the general public; more restrictions are certainly justified when the employer is supported by contributions of taxpayers, and most completely when the government becomes the primary source of support. It is worth contemplating whether the public trading of companies on stock exchanges likewise makes them more "public" ventures with concomitant obligations to the members of the community at large. But given the many ways in which taxpayers support businesses, e.g. public education at various levels, roads, other transportation and infrastructure, it seems clear that very few employers operate completely privately, even as club operators or goods or service providers to private citizens.

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[1] I have already argued in chapter four that need is a grounds of entitlement. I also argued there, however, that need should not govern the allocation of all that is to be allocated; I am concerned here with desert as the main distributive principle, assuming that need has already been accorded its proper place.

Only in the case of employers as club operators or persons hiring others to do work for their own use and not resale is it acceptable for employers to refrain from giving primary consideration to ability to do the work well as a condition of employment. To reword this in the language of equal opportunity, people ought to be given the right to equal consideration once they have applied for a position, the right to be judged by their credentials, and in the case of fully public endeavours, the right to be informed about and ability to apply for the position even up to the point of having transportation and accommodation for the interview provided (although this requirement might be obviated by the existence of local preferences justified by, e.g., the need for employees familiar with the area to be served.)

Complete equality of opportunity to compete for a position could entail wide publicity, information reaching potential applicants at approximately the same time, equal access to interviews at similar cost to the person, and much else (much of which would raise the further question of just who should have equal opportunity - everyone in a given city or region or country or profession and so on). I doubt anyone would argue for such complete equality, although I would think that there would be little disagreement that the nearest-to-complete equality of opportunity would be most fitting for public service positions. Why? Significantly, the answer is that the community, meaning all of its members, are both the employer and the persons to be served.

Notice, then, that the focus should not just be on the right of persons to apply for positions; it should also be on the entitlements or legitimate expectations of the persons to be served by the employees engaged (i.e. the expectation to be given a good service or product). This is one of the reasons why affirmative action may be justified in some cases. Whether affirmative action and preferential hiring are actually instances of equalizing opportunity or denying equal opportunity, is one of many questions that issue raises. Suffice it to say here that ability to perform at a position may well include reference to whom is being served, and not just some barebones account of the type of work involved (e.g. police work). It is no arbitrary and therefore unjustified denial of opportunity to attempt to match worker and the user of the product or service.

This account of equality of opportunity actually extends the application of desert beyond what I have argued for in previous chapters. The ideal requires that people deserve to be deserving in the sense that their abilities are to be matched with the work they are to perform, or, otherwise put, it requires that people will be able to be deserving in the roles they take on. I only embrace this extension conditionally, for reasons I have given and will give.

Arguments for equal opportunity often go beyond claims that people should be hired on the basis of merit or talent or relevant attributes. What good is it, some will ask, to judge people on the basis of their qualifications when some people fail to have the same or competitive qualifications through no fault of their own? If we are really to have equal opportunity to obtain the rewards of desirable positions, then we ought to have equal opportunity to obtain qualifications. Notice that the argument is not simply being carried further, it is being altered substantially. The concern becomes one of leading fulfilling lives, not just removing irrelevant hurdles. That may mean providing equal educational and job training opportunities and more. But if we want to remove barriers that people experiencing them did not create themselves, how much more should we attempt to do? Should we equalize home environments, and then even people themselves since talents and other personal traits are arguably arbitrarily distributed?

Do and should we want to be able to equalize genetic endowments of the newborn and create equal zygotes? (Cf. Bernard Williams, "The Idea of Equality", p. 128; Brian Barry, "Equal Opportunity", p. 31.) Indeed, what would be "equal" genetic maps? Who would say, using which criteria? Do we want to do away with any preborn with any perceived disadvantages of the day? Or do we want to maim the especially gifted? (cf. Rae et al., p. 128.) It is important to realize that genetics is not all there is to personality, but even supposing it were, people could not live even remotely identical lives since people would still vary in age, sex, acquaintances, physical environment and so on. Frankly, I see this as a good thing. Diversity makes for more interesting and rewarding lives for everyone. Still, if we had knowledge of what kind of children we will bring into being, with which traits and aptitudes, I cannot argue that we should ignore it completely. We would have to use our judgment - when will we opt to make life easier for our children; when will we try to change society to make acceptance of our children more enlightened? Still, attempts at creating superior human beings are fraught with dangers. Our knowledge about who we would be creating would be combined with moral and other ignorance. So what should we do, all things considered? Can we be wise and good enough to consider all things in circumstances we find ourselves in and can make? These are difficult questions. Once our children are with us, however, we should have a considerably easier task of deciding what to do.

The best course for existing persons is to provide them with the education and opportunity to develop their natural abilities, and offer encouragement, especially before "age", to channel them in "positive directions". We should nurture nature. We should try to do what we can to bring up to a standard of normalcy those who fail to meet it. By normalcy I refer only to normal form as it were, to non-deformity, and certainly not to average strength, outgoingness, intelligence and so on (cf. Benn, p. 161). In the words of R.H. Tawney, equal opportunity:

> ... obtains in so far as, and only in so far as, each member of a community, whatever his birth, or occupation, or social position, possesses in fact, and not merely in form, equal chances of using to the full his natural endowments of physique, of character, and of intelligence. In proportion as the capacities of some are sterilized or stunted by their social environment, while those of others are favoured or pampered by it, equality of opportunity becomes a graceful, but attenuated, figment. (Equality, pp. 103-104)

We should try to see to it that schooling provides some basics; we should try to see to it that parents understand and provide the essentials not only for physical survival but also for social and intellectual development inasmuch as these can be provided for in a home environment. This is certainly not a call for identical raising of children nor communal childrearing; it is a call for provision of some things at a minimum level within a suitable range where they can best be offered. Sometimes that is in the home because parents will be motivated to give special attention to the unique elements of their children's makeup, and because parents will have the requisite knowledge of their children (cf. Charvet, p. 4, on equal opportunity and the family).

The same kinds of argument should be used in response to any claims that we should try to "equalize" social environments in order to equalize opportunity. Sameness denies diversity. Not only is diversity a good thing for the stimulation, challenges and enjoyments it brings, it also enables us to respond to diverse needs and wants of individual persons. On the other hand, some uniformity or equality or "sameness" at the right level of abstraction is desirable inasmuch as people are the same, irrespective of particular circumstances. Discerning the difference between what ought to be dealt with individually and what else as a matter of uniformity again requires wisdom and judgment. We should equalize environments and opportunities, and therefore to a degree people, to the extent that it is good for people.

II. **Criticisms of equal opportunity**. The notion of equality of opportunity has its critics; their criticisms are more or less justified according to the formulation of the argument they are attacking. Four criticisms in particular are particularly significant - and surmountable.

1. I have largely dealt with the first one I wish to discuss. Carried to its logical conclusion, equality of opportunity leads to logical and other absurdities. More fully, equal opportunity arguments maintain that if people are to have equal chances at success, and not be held behind by factors over which they have (had) no control, then not only should their education be equalized, so should their upbringing, and even then, talents and other personal traits

are arbitrarily distributed and so they should be equalized to the extent possible. We should create identical beings and raise them in identical surroundings. This, plainly, is absurd. In addition to what I have already said about such points, I have additional comments to make in reply to a second criticism, which is essentially the first argument with a different conclusion.

2. The second criticism opposes rewards for supposedly arbitrarily received attributes in the "natural lottery". It states that in a fair race, meaning, I assume, one in which no irrelevant characteristics are used to disadvantage any entrants, the most talented or meritorious are destined to win. There will be few winners and many losers. The implication is that "real" equality of opportunity requires each participant to "have an equal chance to win" (see Sher, p. 114, discussing John Schaar's point), which quite plausibly points to one of the following conclusions: wealth should be distributed at random, equality of result should be the goal, inequalities should benefit everyone, or inequalities should benefit those entitled to receive more for some "nonarbitrary" reason - which, alas, needs to be defended. Unlike the first criticism, this one is more likely to be voiced by those who think that equality of opportunity does not provide for enough equality of income, wealth and well-being. This argument fails because there is good reason to allow people to be who they are, with different abilities, temperaments, earned development of skills etc. But it is also the case that people are not greatly different in natural endowments, and in any case, it is a large mistake to speak of one competition. There are many, and the losers in one are quite possibly fortunate to lose so that they may enter a competition more in line with what they have to offer.

Much of the concern of non-meritarians seems to arise from a fear that there is great natural inequality, the fear that we are very unequal as potential deservers, the fear that social inequalities are not necessarily distortions of natural or nonsocial inequalities. I do not see why this should be so, especially considering that abilities are not of a single type, e.g., those related to abstract mathematics. Prematurely judging that to be the case could lead to adoption of foolish corrective measures.

Could it be the case, though, that some persons are more talented at earning money and managing financial transactions, or simply at "competing" whereas others, most others, are good at other things, including working cooperatively and following, not leading? (see Tawney, p. 108) Some with lesser abilities to produce for exchange may have greater abilities to provide directly for their own needs and wants, but this, I fear, is uncertain. More certainly, if there are two such groups, their existence does not argue for equality within the groups. If they do exist, however, and people can claim no credit for belonging to the one arguably more advantageous to belong to, then we can profit by asking whether ability and therefore desert needs to be deserved for someone to receive what he deserves, a question I will address in the next chapter. Even if it does not (as I shall argue), though, we can still consider whether people can be entitled to unlimited unequal wealth whatever it may be derived from. I will argue later in this chapter that they are not. I am, nonetheless, not at all persuaded that a wide discrepancy in ability to be deserving exists among most people.

Unequal rewards in marketplace transactions can be justified, as I argued in the previous chapter, because the value of what is offered for exchange differs. We do have considerable control over what it is that we offer, at what level of quality, in what quantity and when. Talent and especially innate talent is only part of the picture. It is significant enough, however, to merit the extended consideration I will give it in the next chapter.[2]

I am not arguing, I reiterate, that merit is the only reason people should have things. I have already presented my position that people have entitlements to generosity and community provisionment on the basis of humanity, citizenship and dependence. Self-sufficiency in part of life is a good, but not the only one.

3. If we perpetuate the myth that market economies reward and should reward those who are most deserving, which proponents of equal opportunity do, and minimize the large actual role of chance, we risk heightening envy and the frustration of those who receive relatively little. Lower-income folk just may be more prepared to accept the truth that luck is significant, and if they do, all the better for social harmony.[3] The real intent of such arguments would seem all too clearly to be the intent to protect the better off whose positions could be challenged precisely by those who are more deserving, unless the argument is supplemented by the claim that only a few can be truly deserving, which is the second criticism discussed above. Luck with respect to outcomes of our activities is another matter I will discuss in the next chapter in addition to the question of luck in natural assets. The point established here is that this criticism is either part of the previous one, or simply transparent self-serving rationalization.

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[2] I will also consider related questions. Are we really responsible for our choices? Do we deserve credit for deciding what we could not help decide, if "determinism" is true? Is it the case, moreover, that we are disentitled by that which we cannot claim credit for creating or controlling - in a word, by luck?

[3] See Okun, p. 86; Chester, pp. 147, 152; Tullock, p. 426; Crosland 220-35, 251; on envy - Chester, pp. 52, 85, 90, 147; Wagner, p. 83; Wedgwood, p. 51; Hayek, Constitution of Liberty, p. 93; see also Rae et al., pp., 76, 112; Bauer, p. 371.

4. Those who are most qualified are _not_ entitled to receive the positions they are most qualified for; if they were, the ideal (presumably the ideal of maximizing productivity) could not be translated into practice. If this criticism implies that something other than qualifications should be the basis for hiring, then that "something" needs to be made explicit and argued for. I take it, though, that the claim is that qualifications of some kind related to ability to perform the relevant tasks are the main criterion; it simply is necessary to consider what the best overall hiring procedures will be, given that many people are not the best qualified, and what they are second, third etc. best at doing will vary greatly. And so if there were two jobs, x and y, and two persons, a and b, such that a is a 10 at x and a 6 at y, and b is a 9 at x and a 3 at y, it would make more sense to give x to b and y to a (see Nelson's discussion of Norman Daniels' argument, pp. 165-6). But this picture becomes much more complicated when we deal with many more than two persons. It makes much more sense to select the best person among available applicants than seeking out not only the best non-applicants, but the most beneficial allocation of labour of all workers, considering their second and third etc. labouring possibilities when the pool may include many hundreds of thousands, millions or more. Costs of screening, possibility of error in ascertaining what are and who has the "best qualifications", and neglect or violation of rights to choose and be chosen would be imposing to say the least. Also, the picture suggests too static a model - not all hiring is or can be done at once and forever. This fact compounds the difficulties with the objection just alluded to.

Could the critic reasonably contend, alternatively, that we should fire every worker who could be replaced by a more productive worker whenever one comes along? Or reassign workers within an operation on the basis of maximizing performance overall, even when that means not putting the most qualified person in a position, as above? Loyalty, stability and security for the worker, and consideration of the development of the person for the benefit of the person all have something to be said for them. Efforts should be made to hire the best available when it is the appropriate time to hire, and to encourage the best performance from those who are hired.[4] These considerations do not point to an easy answer in favour or opposition to equal opportunity but rather to the conclusion that it should be adopted in the right form, with the right balances struck. This means that being the most deserving to deserve by working at a position, and conversely, not being the most deserving to hold a position, are not the only considerations in deciding who ought to be hired or maintained in employment.

Just how "equal" equal opportunity should be remains a challenging question. On the one hand, it should (in addition to nondiscrimination) include some minimum level of education and training, both of human possibilities in general but also of ones useful for the society in question, a minimum level of health care, and possibly some guarantees of means, if not the means themselves to meet other basic needs. On the other hand, it should respect persons' individuality and abilities and allow and even encourage people to create their own opportunities. We should not equalize too much.

For the most part, I have been considering equal opportunity to receive unequal rewards with emphasis on the access to opportunity. Some writers on equality say that we need to focus much more on what it is that people have an opportunity to achieve. If it is very unequal incomes and wealth, are these justified by the absence of barriers to attempt to earn them? The answer is clear to me. The differentials themselves have to be justified. They are when the rewards match desert. But that is not the end of the story. Sometimes we should not be allowed to earn as much as we can, and this is only sometimes because the kind or amount of work we do denies opportunity to others. We can see this by looking at the purposes of the impersonal market, and how other considerations of equality fit in with them.

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[4] George Sher's comments (p 120) about respecting ability and therefore persons by hiring the most qualified are similar to earlier points about realizing potential and nondiscrimination. See also Rachels, "What People Deserve", p. 159.

III. **Freedom, equality, and the impersonal market.** The impersonal economic market is not justified by freedom from intentional coercion, or government action, as I argued earlier. Indeed, as a public institution, it is managed and regulated by governments in order for it to exist; they must coerce for it to function. Freedom to enter voluntarily into uncoerced exchanges, the provisions of which can be expected to be fulfilled, for example, requires government involvement at least some of the time, as supporters of "the market" will concede, some more reluctantly than others (see, e.g., Friedman, pp. 2ff). Is the objective simply for government to protect individual transactions, anyway - some natural right to exchange? This is a possible claim, but one which I will maintain few make, and rightfully so, especially when we consider not just the existence and purpose of markets but impersonal mass markets.

I have already articulated the position that impersonal markets are justified by freedom from consideration of irrelevant attributes (to the extent, of course, that the market really is an impersonal market), such as race, ethnicity, language, age, religion, personal beliefs and interests (which might have to be held to be irrelevant by government action). What is relevant, and indeed what justifies the impersonal market, then, is the quality, and quantity, of the labour, good or service provided.

Other more commonly offered justifications are interesting and important, not just on their own terms, but for what they imply - that all people's needs and wants are to be addressed and certain inequalities are legitimately curtailed to enable them to be addressed.

Advocates of competitive, impersonal markets argue for them on a number of grounds in addition to individual freedom. These include responsiveness, efficiency, productivity, diversity and innovation (see, e.g. Blomqvist, p. 9). These can be said to involve freedom of an unmentioned kind, namely, freedom to choose from a large range of alternatives to meet needs and wants.[5] While this freedom may be a kind of freedom from government dictation, i.e. government decisions on what is produced and available, it is only individual freedom in an attenuated form. The more significant aspect is the provisioning of needs and wants.

Certainly no-one can claim that any one person can or should be able to choose the factors amenable to human control which influence the range of goods and services available, how many are offered and how many of which kinds are desired by other people. Calling upon the magic or benevolent character of "the impersonal market" is not a solution available to an advocate of individual choice, even when the market is envisioned as the aggregate of great numbers of individual decisions precisely because the individual in the impersonal market is not catered to personally; he is mainly confronted with options aimed at volume and common denominators. An appeal to the impersonal market is much more opposition to organized collective action, or dictatorship of a few, and quite possibly state control, than it is promotion of anything worthy of the designation of individual choice. What would be worthy is the operation of "personal markets" in which the individual consumer's needs and wants are known and catered to, and, ideally, with considerations of alternatives open to him. This is desirable, but not all of the time in the real world partly because the impersonal market can provide economies of scale and provision of goods which could not be otherwise provided at all. The options are regularly scheduled bus or air service on designated routes at one extreme and on-call to-your-door taxi service at any time at the other. There is some room for manouevre, but not so that we can summon international airplanes to our backyard - not yet, not for many people. It may well be desirable to move more in one direction or the other, but to move completely to one extreme, if possible, would be to deny individuality on the one hand, or efficiency, commonality and community on the other. I, in fact, do not think either extreme possible, but if possible, not desirable.

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[5] See, e.g., Tawney, p. 228: "Whatever else the conception [of freedom] may imply, it involves a power of choice between alternatives..." See also p. 234. Peter Bauer, arguing a laissez-faire position, maintains that "those who have political power can coerce others by restricting their choices, while wealth does not by itself confer such powers on the rich" (p. 364). Bauer's comments are interesting here simply because he links coercion and restricting choices.

The reason people participate in, and should support the impersonal market ultimately is not to attain freedom itself (whatever that may be), or more likely to be said, freedom from government, but to obtain its output. People have needs and wants they want to have met. Since it is an impersonal market we are talking about, any freedom to choose what work to do or what goods and services to obtain will be necessarily considerably restricted by the choices of others. Some libertarians fail to see this; not only would they choose "freedom" over productivity; they might well also choose freedom from government even when government action is only designed to make the impersonal market work for everyone. But once you start to appreciate the limited amount of individual freedom involved, and the other benefits of the impersonal market, we can see the reasons why individuals, and not just the strongest or most competitive people, should support this market.

Efficiency, productivity, responsiveness, diversity, innovation. These all point to meeting needs and wants, that is, providing "the goods" - for people. The objective is not simply to maximize production or to reward the strongest and punish or ignore the weakest. If it were, would there be reason for all to participate simply with the hope of proving themselves among the strongest?

The most morally justifiable position is this. People should enter "economic" exchanges in order to obtain what they want in exchange for what is an equivalent; exchanges should be fair and just. They should also want and assist other persons to be deserving participants in the market; they should also contribute from their gains to the community and the incapable and temporarily sidelined. (This is because people should have a concern for all of humanity, but self-interest can also be served by having other people self-supporting.) The justification of the impersonal market, in short, is that it attends to the needs and wants of all people in the community. Competition in providing them leads people to try to provide them more cost effectively. The possibility of private gain may lead to innovation, the creation of new products. But it all comes down to the same thing - responding to people's needs and wants.

Some people may deny this, saying that the fittest should survive, and prosper, in the economy; others who cannot survive should be looked after by charity and/or government, if at all. How many would really contend, though, that people who can look after themselves, can be justifiably denied the opportunity to do so? If any would, their views should not hold sway.

We should consider once again the nature of the impersonal market. It is essentially the above subsistence economy in which there is a division of labour and specialization, people use money to participate in indirect and delayed exchanges, and mass production takes place. Much personal freedom, properly described (that is, with respect to custom, discrimination, government, and choices from options determined by others) and mobility (geographic and between and within employments) exist along with considerable (inter)dependency. People make further developments possible which take people from the land and increase the population which cannot go back to it. We may want to stop before long, or even reverse the process partially, but once certain population sizes have been reached, we have limited choices. In any event, those who deny we have responsibility for others should at least consider their role in putting others in the situations they are in.

If we accept that the impersonal market should benefit everyone, or at least everyone in our community willing and able to contribute to it, then we should recognize that there are some conditions which must be met for it to come closer to accomplishing its ends or purposes. These conditions point to significant equality. Among the conditions, no buyers or sellers should have an "appreciable influence upon the price" and so "the largest buyer or seller must provide only a small fraction of the quantity demanded or supplied, which involves, in addition to large numbers, no extreme inequality of size" (Stigler, p. 88). Why is this? Why are monopolies and for that matter, oligopolies, considered to be (usually) undesirable?[6] I would think because price makers (i.e. actors which are not price takers) do not subject themselves to market discipline; they can sustain high profits without having to provide better goods and services and/or ones at lower costs; that is, they do not need to strive to continually improve their ability to provide for the needs and wants of customers. When monopolies or limited competition are justified, if they are, is it not on the grounds that they are in fact better able to provide benefits to people, be that due to lower administration costs, absence of the duplication of certain procedures, etc.? Inequalities of market power, then, defeat the purpose of the impersonal market when they are used to force someone to accept less than they are entitled to or pay more than required to by market determination. But we have two things to be concerned about: the matter of forcing or deceiving people so they pay too much or receive too little and the matter of effects on market price.

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[6] And "monopsonies", to use a technical term which refers to markets in which there is only one buyer.

IV. **The harms of inequality**. If the preceding analysis is correct, then inequalities, especially ones allowing for some to dominate markets, can work to defeat the objective of meeting wants and needs. This is true even when the wealth amassed has been deservedly gained. Before attempting to say what to do about this, I will expand upon the types of effects with which we should be concerned. Large inequalities and dominance can effect what is produced, which workplace conditions prevail, whether people receive what they deserve, and who exercises what political power.

IV.1 **Effect on what is produced**. Large inequality of wealth may result in the production of products for the wealthier, and inattention to the needs of the less well-off. C.A.R. Crosland says that the objection is "fundamentally not to the role of profit, which is merely to reflect & communicate the distribution of demand, but to the distribution of demand itself - to the fact that the rich had so much money to spend on caviar [and luxuries], and the poor so little to spend on milk [and necessities]." He adds, however, that "to-day the redistribution of incomes, and the rise in working-class purchasing power, have banished the worst effects of production for profit by calling forth a quite different pattern of output." (See also Stigler on G.B. Shaw, p. 17.)

However great or small this effect is in industrialized countries, it may be a greater concern in other places. But even if necessities are widely available, there is another consideration, and that is cost. Those with more money can afford to pay more, and so their spending may keep prices on some goods higher than they would be otherwise, thereby keeping the goods from being as affordable for as many people as they might be.[7] In some cases this should not be a major concern, in others it should, even with respect to tickets to sporting events and entertainment, recreational property and other non-necessities, but useful things, and more basic items such as good housing, legal services, drugs and medical treatment. It might not be possible for new competitors to enter the market to lower prices because of lack of access to the product or simply limits to the supply or legal barriers (e.g., patent protection for name-brand drug manufacturers), etc.

IV.2 **The use and abuse of economic power in markets.** The very unequal (that is, the wealthy) can control resources and the "means of production", the means both to subsistence and to participate in "the market". They can buy up natural resources and command if not shape human resources, and dictate wages and working conditions.

Not all people benefit when the powerful get their way, including in "free markets". There is no reason in practice or theory to suggest that all would. The most powerful market players decide what to do, and when they are disciplined by the market, not all goods produced and put onto the market are "cleared" by the price mechanism; some are essentially worthless, some spoil, some become obsolete quickly. Similarly, when we look at people there is no reason to think that all will find employment, even when there is no minimum wage. Employers collectively simply do not need to hire all those in the labour market (nor those who are not in it, or possibly defined out of it); if they have enough unorganized workers and unemployed or underemployed eligibles they can pay little enough to make a profitable, competitive product. Why should they, from a purely business point of view, have any interest in how many other persons exist - except as potential customers or revolutionairies? And a business does not need ever more customers, or even a large share of a given market; it just needs "enough" customers. Suppose a country has a climate suitable for agricultural products for export. The economically powerful may be able to orient the economy to exports. From the perspective of "comparative advantage" this may be "the" wise thing to do. Agribusiness may force many people off the land, though, to produce a crop which may be in large supply in the world, and for which there is a highly elastic demand (Lofchie & Commins, p. 311-12).[8] It is not an automatic that the unemployed will find work. Doing what? We should remember that labour is not as mobile as capital, in part but not only because of restrictions on immigration, and labour is not always quickly redirected or retrained. Mere survival, or starvation and death are real "options" as there is no certainty they will be needed by employers or if they are, soon enough. I cannot see why the same will not apply within as well as between countries.

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[7] See also McCaffrey (pp. 291, 302) who cites A. Sen in support of the point that the spending of the wealthy influences prices.

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[8] Elastic demand is demand that is responsive to price; it changes with it. For example, if a price goes up significantly, demand drops significantly.

I am not saying that all unemployment is the fault of the economically powerful. I am saying that business works to decrease employment at times, other times it simply removes the option of providing for oneself. It also increases employment, but can do well without full employment.

Interestingly, Milton Friedman (pp. 13-14) writes that in a barter, pre-division of labour society "the household always has the alternative of producing directly for itself" and so may refuse to enter into non-beneficial exchanges. When he moves on to discuss money economies and voluntary exchanges he does so without making reference to that alternative. He seems to imply that this option is no longer a right nor needed in money economies; it does not exist for many, many persons in fact. People do not have the choice whether to work for an increase in wealth or a fair return; they may not be able to work at all or even survive, if there is no social safety net.

The point here is that business can deny access to resources necessary to living as well as living well, not to mention set out terms and conditions for access to them, and revoke access to them, especially when there is little competition for workers such as (but not only when) a few large firms control the market. How often do employees have only one or possibly two employers they could work for? Or any larger number, but the employers establish conditions, having no problem finding others to work on their terms? These are important empirical questions, the answers to which, of course, will not always be the same. When unequal economic power is a prime causal factor, there is something to counter.

We need to discuss terms and conditions of employment with the correct reference point. It should not be the "what the worker would get working for himself", or without the presence of the new employer. We should not say, as Melvyn Krauss does (p. 63) "that multinationals pay higher wages than do local firms for similarly skilled labor in the third world.

If this is exploitation, poor people may want all they can get." The correct reference point should be what people deserve. If I have a position to fill and know you need a job badly, am I acting justly if I reduce the pay to the lowest level I think you will work for? Imagine I hire you at $10 a week. You produce 10 units of something on which I am happy to make $100 after expenses. You become happier because of some event in your personal life and produce 20 units, on which I clear $200. I decide to pay you no more or slightly more because you have no other job prospects. I doubt that this would be just, whether you were making no money or $5 a week before.

Someone may argue that high profits are needed in order to capitalize further development. Even if this is true, does it mean that the workers are the ones to sacrifice some of what they deserve? And as much as they do? Some of the conditions of workers in so-called newly industrializing economies cannot be justified by the need for capital. The housing and safety conditions are ones which are either unnecessary, or only necessary because of the absence of laws compelling competitors to be as humane; the absence of those laws is unjustified.

Employers are sometimes confronted by workers who unite and with the assistance of labour laws may drive up wages. It is possible that in doing so workers receive more than they deserve, on the basis of the usefulness of the product, but the employer is able to pay the wages by increasing the cost to the consumer who does not have the option of going elsewhere. Labour spokesmen may wish to deny this happens much at all; business people may wish to insist it happens very frequently. When it does happen, business may also receive more than it ought to, and so the worker, in a sense, may be both overpaid (in absolute terms) and underpaid (vis a vis its share in producing the good or service). Whether or not business is also overpaid, its size and position in the market may well enable it to perpetuate this injustice on the consumer. Labour unions, for that matter, may be able to hold different operations hostage, such as transportation workers upon whom various producers may depend for transporting their goods. My concern, then, is not simply that some people receive more or less than they deserve but also that consumers may be required to pay too much. People's wants and needs are met not only by engaging in productive activity, but also in having and using goods and services, which they should not have to pay more for than they are worth. This can result from groups of workers and not just corporations having excessive influence in the markets.

IV.3 **Economic and political power.** The possible abuses of economic power extend into areas I have not discussed. Companies sometimes wrongly decide to lay off people or change business plans and decimate communities by closing operations which are profitable but not profitable enough. Sometimes they operate unsafely, pollute and use political influence to escape penalties for their crimes of various sorts. Indeed, the whole question of ability to persuade political decision makers is enormously important. People spending money to try to obtain influence do not always succeed; they do not always do it well. Other times they do, however. If I may hazard a generalization, this is often when the subject matter is arcane and complex for citizens of a democracy who might otherwise counter the efforts, such as in the area of trade and taxation policy. But other times successful political campaigns are waged publicly in support of particular policy positions and candidates and parties.

IV.4 **Inequality and community.** There is one more concern about inequality which merits consideration. Tawney argues that beyond a certain point inequality makes for divisions in the community, and may even make it inappropriate to speak of one community. For there to be a community, a common culture is needed, and for a common culture to exist, citizens must not only be able to provide for themselves, but must be able to see themselves as equals in social standing, and not just in legal and political rights. When people are too far behind in relative terms, regardless of their actual level of material well-being, they will not feel respected, nor be afforded dignity. They may even feel servile and humiliated (see Tawney, pp. 43, 108, 110).

While this may appear simply to be a clever, oblique justification of envy, I think it goes beyond that because it includes consideration of how the wealthier feel about the poorer, and not just the reverse. But I am not certain that it is really a separate concern. If the forms of domination I refer to above are diminished I do not see that this problem would exist, and if it did, the real problem could be one of attitude rather than material condition. How, though, would I diminish the forms of domination that could result from deserved and undeserved inequalities?[9]

V. **Solutions**. Some of the problems may be addressed some of the time by steps other than reducing inequality. Business can be regulated, judicious labour and environmental laws enacted, and controls placed on political involvement, such as limitations on advertising and campaign contributions. Other times, however, such measures will be insufficient. Laws will be circumvented or not even put in place because of the influence and size of the players with significant resources behind them. Limiting economic power is sometimes needed. Granted, making income and wealth more equal will not solve all problems; there will still be those who find ways to exercise power and domination when they cannot legally obtain large amounts of wealth. That should not cause us to overlook the possible reductions of abuses and undesirable consequences we can accomplish through narrowing of inequality.

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[9] Aristotle says (Ethics, Book VIII, ch. 1, pp. 192-3): "Friendship seems... to hold states together, and lawgivers to care more for it than for justice; for concord seems to be something like friendship, and this they aim at most of all, and expel faction as their worst enemy; and when men are friends they have no need of justice, while when they are just they need friendship as well, and the truest form of justice is thought to be a friendly quality."

He also writes (Book VIII, ch. 7, p. 204) "when one party is removed to a great distance... the possibility of friendship ceases."

In business circles today there is support for approximate equality of size of companies and countries. Mergers and acquisitions are said to be necessary so big companies can compete with other large market players;[10] trading blocks of comparable size need to be organized so that companies within them can grow large enough to compete internationally.[11] It only makes sense that since the impersonal market is for the benefit of people, they too should be relatively equally able to benefit from markets, especially considering they may be less powerful than not only other persons but also companies, countries and more. (Individual persons' interests may be well represented in companies and by governments but if they are not, then they may be especially vulnerable, unless they join forces with larger organizations of some kind.)

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[10] This argument was made in support of two recent Canadian corporate takeovers - the purchase of Coles by Smithbooks and Maclean-Hunter by Rogers Communications.

[11] Naturally, some will argue the best would be the existence of one trading block, i.e. no trading blocks and universal "free trade". Besides the questionable merits of the goal, the difficulties in achieving it should reflect a picture of domestic objectives and priorities, some of which might even be justified.

I have to concede that the possibility exists that there will be times at which it may be necessary to not just limit inequalities, but also inequalities of desert. There can be no doubt that actual differentials owe much to manipulation, deception, undercutting, threats etc. and not inequalities of desert. Also, if my positions on the limited rights of usage of wealth are accepted, it may well also be the case that many individuals would not want to earn as much as they do now. My challenge becomes somewhat simpler when I clarify my position. I am in favour of limiting inequality in the name of meeting needs and wants which, a significant part of the time, are to be met by people earning what they receive. Furthermore, it is important to recall my earlier remarks made in the context of equality of opportunity. I said that people are not entitled to earn all that they can. There are other values, such as making room for people to be self-supporting, job security, and loyalty. Still, I would say that the gap between earned incomes and wealth could be very large since some people can choose to spend significantly more time developing and using skills than others, and in ways to create greater values for greater numbers, even considering that at some point the benefits can become ones they should offer as a benefactor to a community or mankind. Therefore, the range of incomes can legitimately be as large as the range of inclination and ability combined. For the most part the range of ability is not great; the range of inclination is probably greater. How, then, can I argue that people may not be entitled to earn and deserve as much as they wish?

I see several options as possibilities. We could equalize merit, in one form or another. For example, someone may say that since people are unequally deserving, all should only work the time individually required to earn a standard sum. Some would work 5 hours a week, perhaps, others 15, others 50. Or in Bernard Shaw's parlance, everyone would do his share of the nation's workload (Intelligent Woman's Guide, p. 103). This plan rests upon the premise that everyone works only for the community. But even if that were not an erroneous position, it would be difficult to see such a plan as an egalitarian utopia because of the inequality of leisure. More plausibly someone could promote a society in which people worked similar amounts of time so that a given person would work at doing things he is not so adept at as well as at ones he is so that both the value of his work as well as time spent at it would be roughly the same as for anyone else. Perhaps this would mean that everyone would do manual labour, perform standup comedy, serve in political office, play in spectator sports and so on. Or it might mean, more realistically, that each person would perform some combination of tasks to total the prescribed sum. Nonetheless, even then problems would emerge. Products would lack quality. Freedom to choose activity would still likely have to be curtailed.[12]

Consequently, I do not embrace this position. It goes too far. It makes more sense to propose that incomes should be made "relatively" equal or simply more equal, but not equal. The range of incomes from top to bottom should not be too large.

Not a few persons treat the desirable range as a question of empirical observation. Inequality is good up to the point that it encourages the industrious, inventive, gifted etc. to increase the output or the efficiency of an economy; greater equality is good when it increases the size of the market and spending power and thereby increases output or efficiency (cf. Okun, p. 4). There might be something to this view despite the fact that in practice the balance pinpointed tends to be self-serving (e.g. the rich tend to say that they need large differentials to make it worthwhile for them to put all out whereas, in their view, the average Joes and Janes are discouraged from working if they are paid "too much" and are not kept a bit hungry).[13] Still, it is essential from the perspective of economic justice to reward individual desert. Therefore, the answer is not to make incomes contingent upon the usefulness of payment for work, but rather to let people earn as much as they wish up until the point that their relative wealth becomes a threat, at which point they may choose to cease working or to work benevolently.

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[12] See G.B. Shaw, pp. 109-110 for his comments. See also J.S. Mill, Principles of Political Economy, Book II, ch. 1, s.3, pp. 206-7.

People whose wealth may pose a threat in the various ways I have discussed in this chapter could well offer benefits to others by continue working and increasing their wealth, by putting more money into the economy and creating more demand for goods and services, thus allowing others to be deserving. Consequently, we may have to reluctantly forego this advantage. But restricting opportunties for some would not necessarily mean leaving tasks undone. Other persons could assume them.

We could also combine objectives, in particular, the objectives of limiting inequalities and offering opportunties to deserve. These could be equitably pursued by well thought-out programs of job-sharing, sabbaticals, early-retirement, and other devices carefully crafted to meet the exigencies of the situation. This also may well mean balancing various forms of compensation: leisure, pay, levels of challenge and unpleasantness. I repeat, however, that I do not seek absolute equality, and insist that desert be rewarded and people be able to decide how deserving they will be, subject only to limitations of extreme inequalities.

There is a large difference between not paying someone what he deserves and in certain circumstances not letting him do something deserving. When prevented from being deserving in the market he can still do other things for himself and he does not have anything taken away from him. This does not pertain to taxation because when it is justified, it is something he owes to others.

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[13] A story by Eric Beauchesne in the Edmonton Journal relays information of an Anti-Poverty Organization worker who had a postcard reading: "To make the rich work harder you pay them more. To make the poor work harder you pay them less."

VI. **Equality of condition is not the goal.** Few arguments for equality are arguments for absolute equality. Any such arguments are impossible to satisfy in the real world, and should not be seen as ideals to strive for - the closest approximation attainable is not desireable. Consider what John Rees asks:

> ... could **everyone** be equally well or ill placed with regard to the various sources of enjoyment and distress - e.g. access to beaches, the countryside, art galleries, first class orchestras, first-division football grounds, major league baseball stadiums, and the national theatre or, on the debit side, proximity to the many and mounting sources of annoyance and frustration in our surroundings? (p. 98, emphasis in original)

Who, that is, would want absolute uniformity or even much sameness; who would want to answer Rees by saying that decentralization and equalization measures could go a long ways toward producing it, especially with the aid of technology?

We should realize that not everyone needs or "legitimately" wants as much as one another. The same things are not required in order to live fulfilling lives nor to become able to live them. Consequently, the key is not each according to his needs (or needs and legitimate wants), nor to each the same social supports and the like, but to each personally adequate social supports and the equal valuing of autonomy and what can be done with it. In other words, equality of material condition, or worse, equality of overall condition, would be denial of a more important equality,

equality of respect for conscious, rational autonomy.

If all that an egalitarian is arguing for is "the development of the capacities of all men in their richest diversity" (Rees, p. 105), then he should realize that this will not require equality of condition and it will entail respect for the use of those capacities which will result in material inequality.

VII. **Labour as its own reward.** Someone, no doubt an egalitarian of some sort, may reply that uniqueness ought to be respected, but not by conferring unequal rewards or making unequal payment for labour. "Merit should be its own reward." We need to evaluate this claim differently with respect to obligatory activities and public service and with respect to other, optional activities. I would reiterate that we should not expect reciprocity in the performance of duties or provision of public service; they are not trades or exchanges. We should not even require or expect honour in return. As I commented about happiness, we may decide we ought to do certain things from which happiness, or in this case, honour or satisfaction results, but often that should not be the initial or primary reason for doing them.

If there are non-obligatory activities, on what basis could we deny proportionate payment, or encourage refusal of it? We might encourage occasional benevolence, but not "benevolence" at all times. How, moreover, could we justify wanting to see those who find satisfaction in their work being able to receive nothing additional in return for their work while the others would receive something, much more perhaps - would that not be to take advantage of the satisfied? Would it not be to encourage if not require some to accept that satisfaction in place of the self-fulfillment that comes from providing for one's needs and wants, whether directly or through exchange? Work satisfaction should be valued but it does not constitute part of value in exchange; it should not be a disqualifier of entitlement. I suppose that we could require people to be satisfied with their contributions to a general pool of goods, or simply contribute to one whether or not they are satisfied, but neither of these alternatives are attractive, hardly providing for individuality. Rather than having a general injunction against proportionate shares and exchanging equivalent for equivalent, then, there should be recognition of their generally just and respectful nature.

VIII. **Conclusion.** I am sure that many an egalitarian would not be satisfied with my arguments. It is not enough to provide for equal opportunity to be unequally well off. It is not enough to argue for limiting inequalities which enable some to dominate others by: influencing what is produced and sold at what cost; dictating wages and working conditions; making decisions with major impacts on the lives of individuals and communities; and influencing politicians. We do not deserve not only our talents, but also our character which causes us to develop them. We do not deserve our unequal social circumstances and opportunities and resulting good or bad fortunes. Inequalities are all a matter of luck of one sort or another. In the next chapter I will respond to these claims about chance, and set them apart from matters pertaining to chance which we choose.

Chapter Six: Natural and Artificial Chance

People have a diverse and fascinating range of attitudes toward the role of chance in their lives and the relative significance of efforts to control their own destinies. We seem to want to be able to determine our own fates and yet often feel very good about being favoured by "fate"; we feel good about being favoured but may resent others' good fortune they have done nothing to deserve; we want to control much yet realize there is very much beyond our control; we often prefer fate to collective action; we may flirt with fate. Such an inventory should lead us to see that what we feel about fate, fortune or luck and what we think about it may not be the same thing, although the two may well be related. In this chapter I want to concentrate on entitlements influenced by chance, both unchosen or "natural chance" and chosen or "artificial chance".[1] I will consider psychological factors only when relevant to what our responses ought to be with respect to entitlements.

I will argue that elements of chance which might seem to defeat desert as a basis of entitlement do not. Luck with respect to talents, character, markets, situations, and outcomes, does not disentitle. This is, in significant part, because being deserving does not depend upon having all relevant factors under our control. We can be deserving given certain facts, including who we are, when and where. Luck is also not as large as a factor as it may appear to be when we consider the existence of what I will call one-party luck (the importance of which will be seen in the chapter on inheritance). I will also explain why we can have (qualified) entitlements arising from luck when desert is not part of the picture, such as when we find something to which no-one else has a valid claim.

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[1] The terms "natural" and "artificial chance" are used by L. Duane Willard, "Scarce Medical Resources and the Right to Refuse Selection by Artificial Chance," pp. 225-9. They are also used by James Childress in "Who Shall Live When Not All Can Live?", p. 396. I supply my own definitions, however.

I will argue furthermore that although it may be tempting to try to identify a general principle of entitlement which applies to both natural and artificial chance we cannot find one. It is not the case that because we ought to accept certain distributions or allocations largely determined or influenced by fortune, we ought randomly and frequently to resort to artificial chance as a means of allocation, or necessarily accept as just whatever distributions results from it because perhaps freely chosen. As rational moral agents, we are obligated to take responsibility for the effects of our decisions - and certain non-decisions - on the well-being of people. (I will have occasion to evaluate use of forms of artificial chance in the concluding chapter where I examine activities such as gambling and speculation in capital markets. Returns from such activities are potentially good examples of unearned income.) It certainly is worth contemplating whether those who maintain that natural or brute luck is no basis for entitlement ought to also reject artificial chance as a distributive mechanism.

I. Defining luck, chance, natural and chosen chance. Some relevant definitions are more significant and complex than others. I will attach no great importance to any distinction between chance and luck. The difference as I see it is that the latter is basically chance with respect to human purposes. There may be chance occurances in nature; if so they are not matters of luck. When chance either favours or brings misfortune to people by supporting or working against the purposes they have or should have, then we can speak of luck, but we are still speaking about a form of chance. It may be chance that someone with a hat from Nepal passes me on the street one day, but hardly a matter of luck unless that should happen to have an impact on my plans or well-being (cf.

Aristotle, Physics, Book II, ch. 5).

It may be useful to further conceptualize chance with respect to human purposes in a perhaps uncommon manner. We might argue that whether or not there are any truly chance occurrences in the sense of being uncaused, chance is a useful concept to refer to occurrences the causes of which we are unaware - or not yet aware. A chance event is simply an unpredictable one, given our state of knowledge (see, e.g. De Wachter, 53).[2] I would like to add (this is what may be uncommon) that it may make sense to refer to an event the outcome of which we could now know, but which we have no obligation to attempt to control, and do in fact not have the information to predict, as a chance event. An example: we are invited to a party at which we "by chance" meet a certain person we know but did not expect to meet there, although we could have predicted his or her attendance by inquiring into the guest list. Similarly, we might hire someone of a certain race "by chance" although we may have made the effort to enquire into race and made that a conscious factor.

Unchosen (or natural) chance is what it says. It is a person's lot or fortune which was not chosen by that - or any person. Just because something is not one particular person's doing does not necessarily mean that it is a matter of luck. We can consider unchosen chance to be the chance occurrence of something for which no individual nor group of individuals (and therefore no community) is responsible.[3] Consequently, someone who is born with a physical defect or to bad parents may not really be "unlucky" but the victim of particular negligence or harm for which identifiable individuals or communities are responsible; those responsible have particular duties to rectify and/or pay penalties for the harm. So rather than say that someone who steps on a nail facing upward on a board on a garden path is unlucky when it penetrates his shoe, we should say that that person is to blame for his own "misfortune" (which is not really misfortune at all) if he were careless, or that someone else is negligent. If we can conclude that neither is the case, and no-one is to blame (say an unusually strong gust of wind blew the board away from the shed it was leaning against, and blew leaves overtop of the nail), we may then speak of luck. It certainly is legitimate to claim that the victim of negligence or other wrongdoing is in a very real sense unlucky if he or she did not contribute to the selection of him or herself as a target (e.g. of someone shooting at random), but when the purpose of discussing luck is to decide what, if anything, to do about it, knowing who is responsible for someone else's "luck" and in what way, removes the need for considering luck as an independent category. Therefore, I prefer to leave for identification as truly problematic cases of luck those which are beyond human control (as elaborated upon above), and to exclude what we might call "active-agent controlled, passive-recipient uncontrolled luck" or simply "one but not all party luck" or even more simply "one-party luck". One party is not responsible for what happens to him whereas another is.

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[2] Frans De Wachter speaks of chance being in one sense "equivalent to unpredictability; it is the name we give to our ignorance". "In Praise of Chance: A Philosophical Analysis of the Element of Chance in Sports," p. 53.

[3] Michael Zimmerman (p. 376) states: "Something which occurs as a matter of luck is something which occurs beyond anyone's control." In a footnote he adds: "More restrictively: something which occurs as a matter of luck with respect to P is something which occurs beyond P's control."

Chosen or artificial chance is a term I will employ to refer to the conscious employment of means to produce outcomes which are uncontrolled, such as drawing from a deck of cards to decide who is to deal first.

II. **Luck in demand for one's labour power and talents.** People's deserved economic entitlements are not necessarily subject to complete determination by either an uncontrolled market or by a partially-socially shaped employment situation over which they can and should exercise very minimal or no control. To a significant degree they are not matters of luck, even when viewed in the social context. And when they are matters of luck, deserved economic entitlements are not thereby necessarily disqualified.

Consider the claim that someone might make that: "Nature creates a wide variety of human capacities; culture [or a particular society] picks out certain of those capacities to treat as relevant or important".[4] Or, we could say along the same lines that the exercise of abilities in socially relevant activities is called forth by the requirements of social roles. These roles are only partially open, and even when they are unassigned, are often awarded on bases other than or in addition to ability; they also almost invariably call upon skills which have to be developed in the performance of the roles. These points have some validity. Talents for buffalo hunting, opera singing, playing ice hockey, fiddle playing, nautical engineering etc. which some persons in every society may have are only in demand and valued in some places at some times. Few if any persons can create a high status for their abilities. Two problems. First, as with needs, we can too readily focus on the very particular. Someone talented at playing ice hockey or limerick writing or air traffic controlling, for example, may really have athletic or creative or coordination skills which can be used in various activities. This is not a matter of drawing arbitrary lines between particulars and universals. There simply are skills which people have which can be pointed in different directions. Second, it is a mistake to see people as uni-talented. Once mental blocks (including lack of motivation, incentive and initiative) and barriers to opportunity are removed, people can apply themselves in surprising arrays of diversity. Consequently, we should be slow to conclude that each society unfairly or arbitrarily or just as a matter of fact favours the talents of some over those of others. We should also not overlook the importance of individual and collective action to develop, utilize and promote recognition of the worth of valuable skills.

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[4] Rae et al., pp. 70, 140. The inference that claims of individual desert are invalidated is not one that Rae et al. draw when making this remark, but one that could be reasonably drawn.

We should not conclude from the fact that people are hired or engaged for reasons other than natural ability or aptitude that no-one can or should be paid on the basis of merit or desert. Whatever amount of value someone creates in his work, whether that be less because of lack of desired talent or more because of training and experience, that is the amount that should be paid for. Any adjustments should be for opportunities unfairly denied or granted to persons with relevant abilities and requisite will-ingness to use them - when they have been illegitimately denied an opportunity.[5]

In short, people deserve to receive the worth of their labour because they produce the products of their labour and not because they establish the value of the products or the social situation which establishes that value.

Let us imagine that someone is, nonetheless, born in a place or at a time when the range of economic activity he might profitably undertake just does not offer the same kind of rewards as in another place or at another time - the rewards may be more, they may be less. Can anyone use that as a reason for adding to or taking away from his personal wealth? I do not see how that could create obligations for others. Moreover, there are many reasons to not to try to use that as a reason. We could not compensate equitably. We cannot change the past; we cannot know the future. We cannot move inventions from one era to an earlier one. Who we are is in large measure determined by where we exist and when; we would not be speaking of the same person if we were to change those. But what of good or bad luck not just with respect to what activities are in demand, but also with respect to who may pursue them - what about our place in the social structure? Even if people are free to pursue opportunities without discrimination some people will still come from wealthier or just more stimulating family circumstances.

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[5] Just when compensation is in order is a topic that goes beyond my discussion of equality of opportunity in the previous chapter and is not necessary to take up here.

It may well be the case that certain groups and classes receive more than they deserve, but what if they were to receive only what they "deserve"? Could we argue then that their members, or a significant number of them, do not deserve to be in a position to deserve what they do? The facile response is to say that good luck is not always good luck. If things come too easily in life, we may fail to attain the satisfaction and the good that comes from developing and using our abilities and pushing ourselves to realize our potential. Or we might simply stop doing useful things altogether. Economic success and greatness often come from meeting large challenges. Winners at boycotted Olympic games may be simultaneously lucky and unlucky. Still, the fortunate as well as the unfortunate in social circumstances can face significant challenges and expectations. So as true as the facile response is, we do need to consider fairness and some kind of equality in opportunity. We have no reason, though, I should emphasize, to reject the notion of desert. Even in a society bereft of openness of opportunity, there would still remain reasons for rewarding desert: people doing more and better work in the same employment as others would deserve more; people doing more and better work than others in any other unchosen capacity should receive more because it is their own labour they are providing. Others who do lesser work may be deprived of the opportunity of deserving more, certainly, but they would have the consolation of not having performed unpaid-for labour. These comments depend on the supposition that just wages could be paid. I have no reason to expect they would be paid; I am simply saying in a society with a closed job market they should be. Securing some kind of equality of opportunity would be a preferable objective.

As I said in the previous chapter, there should be a "reasonable" amount of equality in opportunity, and that may involve counteracting humanly created advantages or chance. We should not go too far, however. Diversity is a good. Our ability to effect change, as others have argued, may exceed our wisdom in deciding to do so. But we should also be mindful that our identi-fication of unsalutary states of affairs, i.e. social circumstances, can be mistaken as well. Do different circumstances necessarily constitute favouring or disfavouring circumstances? Which features of circumstances are relevant? We need to have strong evidence that people from different situations do indeed end up with different incomes, incomes we should do something about, before deciding to act. Correlation is not enough. But is there even correlation? Are examples of people from the same families ending up with radically different incomes exceptions, or possibly telling examples? (cf. Jencks et al., p. 8).

We should be open to the possibility that social environments (or "nurture") do not explain everything - which is not to say that they do not explain or contribute to anything. We may be able to choose what to do with our lives; we may be able to stand apart from or above our circumstances or upbringing and the world of causation. There may be free will.

III. **Free will, chance and desert.** Thomas Nagel, discussing "moral luck" (the dependence of our moral worth on factors beyond our control), offers the plausible suggestion that: "Someone who was an officer in a concentration camp might have led a quiet and harmless life if the Nazis had never come to power in Germany. And someone who led a quiet and harmless life in Argentina might have become an officer in a concentration camp if he had not left Germany for business reasons in 1930" (p. 24). Similarly, we might say that had I been born to parents with wealth or business smarts or business ambitions for their son, I might be wealthy today. This might be to beg the question by ignoring how parents arrive at their position and what they may be entitled to pass on, so let us say instead that had I been born into a wealthy neighbourhood, or an economically booming region for that matter, I might be wealthier if not wealthy. Alternatively, let us say that regardless of the socio-economic background, were I to "be in the right place at the right time" I might well be relatively rich. Suppose I happen to know someone with money to invest. Suppose I also happen to strike up a conversation with the owner of a business I deal with. He volunteers the information that he wishes to sell his thriving business to someone such as me who appreciates the real non-monetary value of the service his business provides. He is retiring; his concern is not with receiving top dollar. I buy the business and make a bundle. (Actually it is a bakery and I make a lot of dough.) Someone arguing from a perspective such as that taken by Nagel would argue that I am not deserving of my (good) "fortune"; had anyone else been in my place he or she might well have become well-off too, just as I might well have been a Nazi supporter, if not officer had I been a young man in Nazi Germany.

The first thing to note here is that there is a world of difference between "might" and "would". There is a world of dif-ference between saying that everyone in a certain situation would do "x" and most or some would or might do "x". Is it the case that everyone does the same thing in "the same" circumstances? Not all Germans were Nazis. Not all people who buy businesses in promising circumstances make a go of them. The real question may not be whether people do act differently, though; it may be whether they could choose to act differently. If all Aryan Germans had been Nazis, would that have absolved them of moral guilt? If everyone presented with a much money-making opportunity both took it and succeeded, would that remove desert? If there is such a thing as free will, the making of choices is certainly a good reason for giving people their "just deserts". It is to respect persons as agents entitled to what they aim to and do produce, and as responsible for the consequences of their actions (i.e. as the cause of what they effect).

Interestingly, some proponents of determinism portray the rejection of their position as an embracing of people as random choosers, and their decisions as chance occurrences.[6] This is to miss wildly the proposition that people can act as purposive agents, and are or can be the cause of their volitions or willing and action; they are uncaused causes. It is also interesting that some who reject free will see the supposed fact that we (and all our actions) are determined (caused) to demonstrate that what we do is a matter of chance, at least in the sense of being something beyond our control. (Rawls' views point in this direction.) But such twists of language, as meaningful as they may be, should not obscure the issue here - can we or can we not choose among different possible actions?

The answer to the question of whether there is (or can be) free will is not necessarily to be found in experience, but it most likely is. Again, if people similarly situated act the same, this very probably indicates that people cannot choose to do otherwise. But if any one person does act differently, we have good reason to suppose that it is possible that the person acts differently because he or she chooses to do so. And people do act differently. Not all children from abusive families end up as abusers; not all people from dysfunctional families resort to crime. This does not prove that free will is the only possible explanation, but until we can explain all differences it remains a very plausible explanation, especially given the evidence of introspection. We can observe natural inclinations or reflexive responses, acting without thinking and so on; we can consciously override them.

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[6] See, for example, Hume, A Treatise of Human Nature, Book II, Part III, s. 2, pp. 458-60; Charles Stevenson, "Ethical Judgments", p. 348. See also William James in Grassian, pp. 171-3.

Am I mistaken, or am I correct but fail to see that our conscious, rational selves are in fact themselves determined? I think that I am not mistaken. If I am correct but miss the caused nature of our choosing faculties, I think I lose nothing. The question here is whether we can make choices; if we can it matters not that there is some prior cause. I wonder, moreover, if anyone in this debate has ever considered the possibility that we are generally but not specifically caused. If we are caused, might it not be the case that the range of choices we might make is limited, but we can still choose among a range of choices open to us, given our experiences or natural tendencies?[7] I will admit, nonetheless, that if we truly can make autonomous decisions, it is a mystery where this necessarily nonphysical choice maker exists and when it comes into being. Do we have to resort to a belief in some kind of "soul"?[8]

IV. **Does desert depend on choice?** Having said all this, I must add that while I think that the existence of free will would be a sufficient and good reason (a "sufficient condition") for rewarding economic desert, I do not maintain that it is necessary. We should give people what they have "earned", what they have made (or the equivalent) and put themselves into, whether or not they had or made a choice, and whether or not they were lucky to be in the situation they were in. Similar points should be made concerning abilities or talents and character.

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[7] Another intriguing possibility is that most but not all persons are captives of their inclinations and caused selves.

[8] This choice maker would be nonphysical because the physical or natural world is largely if not completely determined.

To elaborate, the fact that people may be encouraged to use their talents for useful projects is a good reason to pay them what they deserve; to pay them proportionate to valuable labour contributed because that is to recognize them as autonomous agents who have chosen to do what they do is also a good reason. It is only necessary to pay deserved amounts because the labourer is entitled or has a right to what is his.[9] Choice is not essential in this context. If someone is forced by circumstances (e.g. illness in family, poverty, fire etc.) to do work he does not wish to do, e.g. to work with or for a racist, he is not any less entitled to proportionate payment as a result. The picture changes, of course, if we speak of activities, of labour, with objectionable goals. The degree of coercion must be great before we excuse - if at all. But the converse is not true. If someone has very, very little choice about doing morally neutral or good work, he still gives of himself, and, moreover, may well have chosen to do what he does, had he had the choice. Naturally, correct or well-intentioned motivation or lack of it does enter into our evaluations of character and whether honour or praise are deserved; they are not central to the question of what value of labour is deserved in return.

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[9] Some confusion might arise because I and others defend "merit". I do not defend "moral merit" as I will explain later. I am only defending a kind of treatment merited, a payment for having done something, that is, respect of a right.

Rawls asserts that: "The assertion that a man deserves the superior character that enables him to make the effort to cultivate his abilities" is as problematic as the idea that he deserves his native endowments "for his character depends in large part upon fortunate family and social circumstances for which he can claim no credit" (Theory, p. 104). Given what I have said, Rawls does not raise an objection which covers all the necessary ground. Neither mere possession of abilities nor character leading someone to develop them are what entitles someone to the equivalent of the product of his labour - the fact of his labouring does. Nonetheless, as I have said, the fact that someone chooses to do useful work should count in his favour, whether or not we need to attribute desert for choice to character rather than to particular individual decisions.[10] Interestingly, Rawls covers himself by using the words "in large part". I could agree. Yet the other part, I would suggest, is not at all insignificant. People do deserve credit of some kind for choosing to act in some ways rather than others, be that in evaluating and (re)directing their own character, developing talents or choosing to use them in particular ways or to use them at all. Just because someone has developed certain abilities, whatever role deserved or undeserved character may have played in that, does not mean that the person will use them better or best.[11] Someone may reply that that too is a matter of character, or that particular choices are also "unchosen" or determined. This is a matter without question worth pursuing.

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[10] We might argue that a praiseworthy decision which is out of character is especially meritorious, or, conversely, that aberrations should not count since only overall records should. This is an added complication which we need not sort out from my perspective, although there are good reasons for making the effort.

[11] See Rachels, "What People Deserve," p. 158. He speaks of variable desert among those who have a similar capacity for effort.

Merit itself is sometimes unmerited. But how does this matter? If we merit something, it is irrelevant whether we merit our merit; we have already agreed upon the essential - that we merit something. To merit is to merit something (not itself). Merit merits rewarding or recognition of some other kind, period. We do not need to deserve or merit being deserving just as we do not need to qualify to be qualified nor entitled to be entitled.

People deserve things because of but not only because of choices they make. If someone is a talented athlete, or personnel manager (because of possessing people skills) then to reward or pay the athlete or manager for the labour he performs is to recognize him for what he is, a possessor of traits who has manifested them and therefore himself, someone who has expressed or extended himself in his labour. To value and respect someone is to recognize and act in accordance with his uniqueness as well as his shared humanity. Many make the mistake of seeing only one or the other. People should be treated alike inasmuch as they are alike: sensuous, thinking, believing, acting etc. beings; and differently inasmuch as they differ: in abilities, needs, interests etc. Universals must be respected but that is not enough; particularities and unique configurations of (universal) traits must be respected too. One cannot be truly respected without the other.

V. The so-called natural lottery of talents. But maybe I have not gone back far enough. Is it not the case that the exercise of our abilities, and the use of our character in developing and directing the exercise of our abilities, depend on our having our abilities or talents in the first place? We have done nothing to deserve them. Why should anyone be able to enjoy a more materially and psychologically prosperous life because he just happens to be lucky enough to be more "gifted" than others?

Rawls, Feinberg (e.g., Doing and Deserving, p. 91) and others attack the idea that anyone deserves his abilities. In Rawls' words "it is one of the fixed points of our moral judgments that no one deserves his place in the distribution of natural assets any more than he deserves his initial starting place in society". No-one is more morally worthy or deserving because more talented, i.e. because his talents are more in demand or less in supply or are or are not at their peak (see Theory, p. 311, also 104).

I have already argued that supply and demand etc. do affect the value of talents. But my claim is not that mere possession of talents entitles anyone to proportionate shares nor that talents make anyone more or less morally worthy. My claim is that it is what talents produce that should be paid for. This is not because people who have them are more morally worthy in their lives as a whole or in any particular aspect of it; it is because their labour, and whatever in them directs them to use it, belongs to them, as does the manifestation of their labour. The matter of morality arises with respect to how others should treat them in economic transactions, not with respect to their character. That said, however, does it not still remain the case that economic worth if not moral worth still depends on luck in the distribution of natural assets?

Considering the arguments I have already made, I do not think I weaken my position at all by conceding that our range of possibilities is somewhat limited by our draw in this "natural lottery". But what of it? I can see no good reason why either fortune in this context would disentitle, i.e. be unjust, or why human institutions ought to compensate for it. (I choose these words because Rawls (Theory, p. 102) articulates the view that the distribution of talents is not unjust, but we do need to establish "just" institutions which redress this arbitrary allotment.)

I cannot agree with Kimlycka who writes that:

> ... Rawls's denial of self-ownership was perfectly sound. I think that we can treat people's talents as part of their circumstances, and hence as possible grounds, in and of themselves, for compensation. People have rights to the possession and exercise of their talents, but the disadvantaged may also have rights to some compensation for their disadvantage. It is wrong for people to suffer from undeserved inequalities in circumstances, and the disadvantaged have direct claims on the more fortunate, quite independently of the question of access to external resources. (Contemporary Political Philosophy, p. 125)

Apart from the importance of distinguishing between the less fortunate and the "disadvantaged" (who could be those to whom wrong was done, i.e., by somebody), respect for persons requires respect for persons who are in part their "talents".

Abilities and talents are integral parts of persons.[12] A person is a package of a physical body, innate and learned instincts, reflexes, responses, manners of movement, co-ordination, emotions and passions, character, evaluations, beliefs, "personal and cultural baggage", thinking processes, and consciousness (self and/or group). There is interdependence among these parts. I find it difficult, in any event, to separate self-consciousness and rationality from "natural talents", presumably some sort of purely physical or physiological attributes.

To some extent it is understandable that Kimlycka, Rawls, Dworkin and others wish to treat the distribution of talents as morally arbitrary, and see talents as in effect community assets and property which should serve the really morally significant members or parts of the community - i.e. the hearts and minds of individual persons and their life plans and projects or, in other words, rational autonomous selves. Peculiarly human dignity and worthiness derive from consciousness - self and other, and rationality. But the most important part of us is not the only important part of our being. To claim that our talents are not ours is ultimately arbitrary because there is no good reason to draw the line at this point. Should we not also claim that other parts of people are not products of their own choices, nor their choosing element, and therefore belong to "all"? Why not claim, then, that reproductive capacities, physical strength, passions and so on, are also arbitrarily distributed and should not benefit nor disadvantage their individual "possessors" but should be socially controlled for social or utilitarian purposes?[13] Indeed, why not include individual minds and reasoning and all parts of people's lives as collective goods? Why select distribution of talents as morally arbitrary and make (supposed) moral arbitrariness as the consideration which demarcates what should be left to the community and what should be left for the individual? Why not simply see the whole of people's lives as at the service of others, such as when there are emergencies and wars? The answer, which I believe Kimlycka and other like-minded thinkers should find acceptable, is that individual human lives have value which is not dependent on complete self-creation; attention given to undeserved natural fortune and "arbitrariness" is misdirected.

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[12] No great weight should rest on a distinction between talents and abilities. If someone - or society - helps you transform "natural talents" or assets into abilities or skills by providing more assistance than required of him or it, then you may owe an amount equivalent to the value of the assistance, but not the abilities or skills or whatever is produced using them.

If we do select talents as something to which we are not entitled, the further and very major - and unanswered - question arises: to whom do they belong and who is entitled to reap the benefit of their rewards? Should it be the parents who "produce" the child? The families of the parents? A community within a state? A state? All of mankind alive today? All of mankind born and yet to be born? Such questions concerning entitlements do not have to be answered with respect to parts of or all of persons' being, however, because apart from collective wisdom or knowledge and other human inheritances which are not individual possessions, and apart from social projects and meanings, there are individual lives. There are individual life experiences, and these are experienced by persons with an awareness of a life which is a whole. My physical, emotional and even social being is something which is experienced personally by me; I do not experience only my rational life as my own. I may well not experience any human life without consciousness and reason or mind but that hardly means that when I do experience it I only experience my experiencing faculty itself.

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[13] People who argue that we do not "own" our own physical attributes (and therefore bodies) should be aware, of course, of the possible implications for issues such as abortion and euthanasia.

Others, whether parents or state or mankind, cannot claim to be entitled to those parts of my being that I did not create myself because they came about as a matter of luck. Nor, I have been arguing, are they entitled to all of what they are responsible for helping bring into being. People are special entities toward whom those inaugurating and facilitating their development have respons-ibilities including responsibilities to respect developing persons as individual persons with their own lives to live.

VI. **More on the worth of and duties towards whole persons.**

I will admit (or argue, if necessary) that there is a real problem in the degree to which people claim to be entitled to live their own lives as self-centred lives, nonetheless. Perhaps this is due in part to a defensive reaction to the reality of dependence and interdependence in contemporary life (as well as due to a cultural tradition of individualism). To say that there is a sphere for private lives is not to rule out social obligations, both unassumed and assumed ones. We might even wish to argue that having good fortune in talent obligates us to do more for others than those who are less able.[14] But again we must be careful what we say about luck or fortune because the obligation here is not due to fortune, but rather our position of being able to do more, regardless of whether we come to be in such a position because of luck, our own or other persons' efforts. We do have such an obligation because other persons' lives are valuable, and those who are in the best position to assist others cause harm to them by not assisting, perhaps as much as if they were to intentionally inflict direct harm on them. We may have added duties because we are members of the same community, and being beneficiaries of it, we are bound to contribute to it, including by benefiting other members so they can be better contributors - if not lesser burdens.[15] Still, some responsibilities are clearly unchosen. We do have obligations to others, they do not arise because of chance, and yet they are not unlimited. We are entitled to look after our own lives to see that they are good; indeed, we are not obliged to do everything possible for others because a major part of their good is doing things for themselves. But autonomy is not the only worthwhile thing. Indeed, we have an obligation to respect others as whole persons.

VII. **Luck in intended and unintended outcomes of economic actions.** Someone who wishes to reject my argument for the distribution or allocation of wealth proportionate to economic desert by reference to the role of luck has another card to play. He can question the relationship I presume to exist between what people do and the outcome of their actions. The product produced or service provided may have little to do with the work performed or the outcome sought. The way "one's actions and projects turn out" (to use Nagel's words from his somewhat different discussion - p. 28) may well be a matter of luck. Consider three examples. A parent creates a recipe for a school bake sale just for fun. A cookie company magnate at the sale is so attracted to it that she offers to buy the recipe for a large sum. An actor shows up on the wrong day for an audition, reads lines since he is there anyway and lands a better part than he had hoped for. An investor invests money in a business simply because he likes its product, failing to see that its future is bleak, but to the amazement of even the most sophisticated minds, social tastes change and it thrives. In all of these cases it doesn't matter whether the persons' talents are their own or their character which enables them to develop them is, or whether they are responsible for their own social situation (class, family or educational background). Their economic "fortune" is very different from what it might have been, and very different from others making similar endeavours.

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[14] See Herbert Spiegelberg, "Good Fortune Obligates: Albert Schweitzer's Second Ethical Principle".

[15] There are other reasons for helping others. We develop human excellences such as compassion, generosity and so on, in doing so. We also provide for more worthwhile lives of others with which to interact. But such reasons do not create obligations to help others.

It is difficult to think up completely appropriate examples in the economic realm, comparable to ones offered by Nagel: the truck driver who accidentally backs over a child; the attempted killer who fails to murder his intended victim because a bird flies in the path of the bullet (pp. 28-29). The reason is that in the economic realm we usually do succeed in what we intend to do (when we set out to build a house, we usually end up with a house), or it is plausible to argue that we ought to know what the probable outcome of our actions will be.[16] The actor was lucky - but also merited his success by acting well enough. Besides, to be deserving you do not have to be the most deserving, only deserving of what you get. So it does not matter that a better actor did not have the same luck and did not get the part. The fact that the parent did not create her recipe for sale is not crucial; as I have said before, a free decision to do the work you do, and therefore the voluntary intention to do something, is not essential. She was lucky but she was not paid for her luck but for what her recipe was worth. The investor indeed was lucky, but we may well need to evaluate what his just or fair share would be. We should also consider how likely he would be to succeed in investing in the long run.

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[16] In fact, if most - or even some - who attempt to kill succeed in their efforts, the fact that some fail as a matter of luck hardly removes the responsibility of those who succeed. Furthermore, it need not be the case that we hold

When we speak of lifetimes rather than single incidents, it is even more apparent that we should, and should be free to, make our own fortunes, to ride the waves of fate and make it take us to one destination rather than others, even if not to any one whatsover. "Every man the architect of his own fortune," the popular saying has it (cited by Francis Bacon, p. 149). Fortune is the impetuous river Machiavelli says, which "is of such a kind" that "when it is quiet, men can make provision against it by dykes and banks, so that when it rises it will either go into a canal or its rush will not be so wild and dangerous" (The Prince, ch. XXV, p. 91).

VIII. **May we profit from the misfortune of others?** Given my acceptance of chance as a part of life which does not subvert

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accountable those who fail because of their intentions rather than the product of their actions. We can punish them to deter them or others, or perhaps give them a lesser penalty because they were not "serious enough" about killing to make sure they succeeded (cf. David Lewis, "The Punishment That Leaves Something to Chance"). So even in cases outside of the economic realm we may still appropriately "reward" people on the basis of the results of their efforts, even when the outcomes are partially a matter of chance. Nonetheless, it would be very much worthwhile to contemplate why we punish only certain failed attempts at crime and not all sorts.

desert, it would be fair to ask whether I think it acceptable for people to profit by the misfortune of others. It is said that "the most frequent of external causes" of one's fortune not in one's own hands "is that the folly of one man is the fortune of another" (Bacon, pp. 149-50). But is it acceptable to benefit from the failures of others? Failures in competitive situations should not be rewarded (cf. Mill, "On Liberty", p. 163). On the other hand, unrewarded failures can be profitable lessons. But as always, it remains the role of society, if not family and friends, to rescue those who fall too far, whether their fall be due to their own failings, the strength of their competitors - or luck. Is it the case, though, that individual persons ought to be able to profit or be "fortunate" by the bad luck of others, and not simply their failings? This, it would appear, does follow from what I have argued so far. After all, I let markets (at least as they should operate) determine the value of our efforts and our economic standing. And supply and demand are not infrequently moulded by "chance" factors such as weather and other acts of nature, whether fires, earthquakes, volcanic eruptions, etc.

Why, then, do many people, myself included, feel revulsion when they see persons profiting from the misfortunes of victims of natural disasters, and perhaps consider the "profiteers" to be "predators"? Are they not entitled to sell their goods, such as fresh water or food or clothing at whatever price the market will support? We should examine this not so simple question from several angles. First, we might object to the fact that the seller incurred his costs and produced his goods prior to the disaster, and is himself very lucky, not having even directed his efforts to respond to needs; the increase of value of his goods above his expectations when he created them is a pure "windfall". Perhaps intuitively pleasing, this argument cannot be sustained. It is often the case that value (relative usefulness) changes after the fact, natural disaster or not.

If increases (and decreases) are not earned at the time of acting, it hardly follows that anyone else is entitled to them. Why, in any event, would the pre-disaster "market value" be the standard for comparison? Perhaps it could be argued that the last seller, the retailer, should not benefit alone - others who contributed to production should share in the profit but since they lack the means to obtain more payment the last seller should not be able to increase his take. If it could, we would still be accepting the higher price and profit for those making goods especially to respond to the disaster market. Is this still not predatory? The answer must be that it is not, not when viewed from the perspective of a just payment, the payment of what something is worth. The question that arises, though, is whether the just payment ought to be waived, or ought to be paid by someone other than the disaster victims. Compassion might be in order, but that depends. Are the goods essential? If not, then the simple misfortune of victims should not be reason to penalize the "profiteer". If they are essential, then it may be the responsibility of the community to ensure that all continue to receive them, as part of their community entitlement. If not, then the producer/seller might be required to be compassionate and waive his windfall, but that would depend on the neediness of the customers. Still, we would be left with the question of why the provider of a particular good should sacrifice his entitlement and not someone else. We could not answer that much of his gain is a matter of chance; that would not suffice since we have already established that the chance factor does not in itself disentitle.

There are reasons, nonetheless, to condemn some persons who benefit from natural disasters, as well as those who benefit from others' personal misfortunes or distresses, especially but not only when they seek out those experiencing them. Simply put, the real predators are those who do not seek to obtain the real value of their goods, or pay the real value of what they buy, but try to take advantage of people who are not in the right frame of mind to make rational decisions - in pursuit of their own self-interest, perhaps, but not necessarily. Someone who has one or more of material losses, injuries to self and others, locating others, grieving, and other distress to contend with may be vulnerable to pressure tactics; he or she may lack the initiative to survey the options; he or she may be too trusting and so on. To fail to see this is wrong; to especially target such persons is especially reprehensible. There is not much difference between doing this and running scams aimed at financially non-astute dependent old people (coming to their houses and offering to do vastly overpriced roof repairs or asking for blank cheques, for example) or knocking them down and running off with their purses.

IX. **Who is entitled to products of pure luck without any component of economic desert?** To this point I have argued that the presence of luck and absence of complete freely chosen control over the circumstances in which we produce do not counteract or obviate economic desert. There are instances, nevertheless, of rather pure luck in which we contribute nothing of significance to what falls into our hands (assuming that whatever it is has value before we do anything to it, even if we can do something to increase its worth). Are we entitled to keep all such wealth, or some share of it, and if the latter, what would determine what that is?

There is really not much that would fit into this category. The paradigmatic case would be finding something that we were not looking for. Consider money we find on the street or something valuable we dig up in "our" backyard. Are they ours? Finders keepers, losers weepers? This is hardly the case if we know to whom they belong. If we are honest, we will attempt to return them to their owners, or at the very least return them if they come looking for them. If someone walking in front of us drops a large amount of money from his pocket, we are not entitled to scoop it up and place it in ours in the hope that we will not be seen doing so.

If we find money or anything else without any way to identify the owner, then we may keep it if there is no way for the owner to identify himself ("I dropped $35 on the sidewalk in front of the library Thursday afternoon, I am quite sure" could be sufficient), or perhaps, if the value is small enough that it would not be worth while looking for the owner, or for the owner to look for the finder.

It is very possible that what we find does have an owner who is not an identifiable individual. If we find a cultural artifact or if we find a natural resource (a mineral, for example), our finding it does not make it ours, regardless of any (nominal) claim to ownership of the land we may have; the members of the culture or the community at large may be the rightful owners, even of what they did not know exists.

I have already forwarded the view that individual persons morally cannot "own" outright pieces of land or the natural resources of the country; ownership can only be nominal or limited - that is, take the form of an entitlement to use them without detriment to the community (unless perhaps they are purchased outright). Still, nominal ownership can provide a basis of entitlement. If I find something with no identifiable owner - individual, cultural or other group or community - on your nominally held land, it would appear that you and not I are the rightful owner, despite the fact I am the finder. I do not know whether it would make a difference if I had rented the land from you. Even if we set aside the question of where we find something, however, questions can remain concerning who is the rightful claimant. If I find something when doing something with a group of people, I may be obligated to share not just my find, but the ownership of it (and concomitant decision-making) with the group without which I would not have been doing what I was doing when I found it. This is not because they have made my finding it possible (just as parents and educators are not entitled to perpetual shares of what their proteges produce) but because I was not acting alone but as a part of the group. If I had "gone off on my own" it may be a different matter. But if I am hiking in a group or working a field with others, it would appear that I cannot claim to be lucky alone when finding something.[17]

Once we establish that I or members of a group are rightful claimants to lucky finds, we cannot conclude that the lucky are entitled to do whatever they want. As before, there are properly limitations on what we can do with what is ours, whether we have earned it or not. Material wealth can translate into economic and political power, but such power is rightly the concern of the com-munity as a whole and it may choose to limit how and by whom it is exercised. Even when it is not the place of society to require we do or do not use what we have in certain ways, we may still have moral obligations to do good with what we have, for example, to help those in need.

Also as before we may find that when we are "lucky" we do not turn out to be so lucky after all, because of our difficulties in managing affairs and a way of life other than to which we had been accustomed. But this does not mean that we ought not to have been able to be lucky in the first place.

X. Artificial or chosen chance. Having considered such relatively pure natural chance or luck as well as mixed sorts and concluded that luck does not disentitle and can even entitle, it might appear that I should fully endorse claims people make to what they receive from another pure-like form of chance, namely, artificial chance, which may even be more pure since there are less likely to be concerns about ownership. Childress uses such reasoning when he points out that natural chance is already used in allocation of access to dialysis - if that is acceptable, then so should be use of artificial chance (p. 395-6). I maintain, however, that there is a crucial difference. Natural chance is unchosen. This might seem to be a reason to favour artificial chance even more because it is chosen. It is not, and this is because we are choosing a mechanism and not particular outcomes. Choice is entitling when the exercise of a right, and when its utilization is aimed at a rational selection of some good. Artificial chance sometimes fails the second as well as the first test, sometimes one or the other.

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[17] Paul Marck, "Finders end up keeping $75,900", Edmonton Journal, 22 December 1995, p. A8. Four "Innisfree-area men who found $75,900 in cash stashed near a gas well" were awarded the money by a Court of Queen's Bench judge who rejected a challenge from the farmer who owns the land. The four-man workcrew had uncovered the money with a backhoe. It is not clear to me why the judge left the farmer out.

When is it appropriate to use a random selection procedure for decision-making? There are two essential kinds of justification. It is appropriate to use random selection when there is a number of persons equally "qualified" to receive or contribute something and no criterion which can be applied to rightly choose some rather than others, and not all can or should be chosen. This could well be the case when selecting from among a too large number of qualified persons wishing to enroll in a course or educational program, when selecting persons for a military draft, when deciding to whom to offer limited medical services, when admitting a limited number of immigrants, when choosing possible candidates for jury duty, or when selecting people for political office, as mentioned by Aristotle, for example (e.g., Politics, p. 237). In each case, recourse to artificial chance could be justified by the claim that no relevant differences exist which could be used to favour or disfavour some over others. This, of course, could be debated in each case. We might propose age, or past or future contributions to society, need, or responsibility for one's own state of health as the basis for deciding to whom to give priority for medical treatment. We might use experience, training or expertise, education, or popular favour as the means for selecting political office holders. In each case, careful consideration of the objectives and best or fairest means of meeting them ought to be given.

It may be the case that artificial chance is justified not because ideally the best but because in particular contexts the best criteria cannot be applied or seen to be applied without favour and unjustified discrimination. Social contribution or lifestyle choices may be the fairest criteria for medical triage but just too difficult to gather evidence for and evaluate impartially. We should note, though, that sometimes when it is appropriate to use chance selection procedures people who have been selected already, or already within a certain period of time, should be dropped from the eligible pool so that as many people as possible "get their chance".

When the two preceding justifications are not available, it is unacceptable to resort to artificial chance. We should not put all heart patients in a draw for surgery when we know that some are much more in need of an operation than others. It would be unjust to those deserving of priority attention to fail to use criteria which we should be intelligent enough, collectively, to ascertain. Likewise, we should not put all adults' names in a hat for military service when those best suited or most obligated to serve are known to us. We can exclude general categories of persons if we cannot make impartial decisions using very narrow criteria. Similarly, there are certain items or services the state ought to provide, including, for example, education and health care, at least to some extent, and the burdens for supporting these services ought to be distributed on a well thought-out basis.

Clearly it would be absurd to argue that an unequal distribution of income is useful for society, but we do not know or cannot fairly decide who should get more, and so we should put everyone's name into a pool and select at random who gets what.[18] An economic system would have to be almost unimaginably unjust or complicated for that argument to work - leaving aside the matter of utility as the standard.

The more challenging argument is that if people are entitled to what they have, they should be free to gamble (in a broad sense of the word) with what they have. The question cannot be whether this is always so, because it cannot be; the question is whether it is ever so, and when. It cannot always be so because at least some of the time it is wrong morally for a person with dependents to gamble with what could provide for them, especially if the objective is not to meet their needs in a situation of desperation (cf. Mill, "On Liberty", pp. 149-50). Yes, people "gamble" on their jobs and careers, but should not when the stakes are too great and the odds too poor. It would also be wrong, I would suggest, to gamble with or enter a bet with people we know and accept the winnings when at significant cost to them. "Friendly wagers" should remain friendly; for some important reason when the stakes get "too high" they are no longer friendly, however much freely entered into, because we ought not knowingly act contrary to the well-being of our friends. Does it matter whether we are talking about a single bet or a series of them? Does it matter if minimal elements of skill are involved? I think not.

How much does the situation change when we are talking about wagers or gambles with persons we do not know? Are they justified because of the advantages of their impersonality just as the impersonal market is justified? First, allow me to reiterate that mechanisms which are more chance than anything else should not be used to allocate wealth in a society, whether as the sole distributive mechanism, or a supplementary one. We do know good criteria and we can do a respectable if not perfect job of acting on them. Artificial chance is called upon for other reasons: to raise revenues for various causes but not all, perhaps because of their uncertain levels for any given year; (re)distribution is not the objective in any event. Redistribution occurs, nonetheless, and so is still worthy of evaluation. Even if you can justify "collateral damage" in war, there are certain limits you should not exceed. So even if all persons requiring heart surgery were to agree to a lottery without undue pressures, with adequate information and understanding and so on, we would be wrong to participate, and wrong as a society to sanction this.

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[18] See Jennifer Hochschild, p. 75. See also the short story "The Babylon Lottery" by Jorge Luis Borges mentioned by T. Mappes and J. Zembaty, p. 347.

The use of chance as a decision-making mechanism can only be justified in limited circumstances, then. Taking risks in life is necessary and good, but especially when the dignity, respect and well-being of others is involved it is incumbent upon us to call upon chance only when we are sure we are not wrong to do so. We are wrong when we neglect appropriate criteria, when we cause an excessive amount of "collateral" damage, and when we benefit unjustifiably "at the expense of others".[19] This last notion is a difficult one to be precise about. Amount would appear to be a factor. That said, in many games of chance there will, it is known in advance, be more losers than winners, and the winners will only win from the existence of losers, and so these games would not be morally acceptable. The question is not whether or not other participants could "afford" the losses, assuming that they were risking what rightfully belonged to them.

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[19] Herbert Spencer, Principles of Ethics, Vol. I, p. 530, says that when games accompanied by gambling or betting involve, as they do "in a very definite way and often to an extreme degree, the obtainment of pleasure at another's pain, they are to be condemned both for this immediate effect and for their remote effect - the repression of fellow-feeling." He does not, however, explain, what constitutes "another's pain" or how great it must be.

I am not condemning all use of chance; its use may well be morally neutral in cases where the criteria I have mentioned are not violated. It might be problematic to determine just what constitutes a resort to chance, or too much of one, or which losses are justifiable, but some uses should pass the test. Again, use of chance may even be laudable when it is inappropriate to make or act upon distinctions. I will not go so far, however, as to take a utilitarian stance in which all the apparent plusses and all the minuses are added up because some of the "plusses" cannot be allowed if they come from or accompany what is wrong and unjust. If people add some pleasure and excitement to their lives from improper uses of chance, that should not be a deduction from the wrong: it should cause us to seek out acceptable means of obtaining pleasure and excitement. On the other hand, additional harms should be cause for concern. If "gambling" is an addiction, we should address the problem. However, the key remains the nature of the activity itself, for if it is not inherently wrong, then treatment for the problem could well accompany the continuation and even encouragement of the activity. After all, some people seem addicted to good things. It would be a different matter, though, if we were talking about something which has addictive properties itself.

In the same vein, we should be very much concerned about the effects of recourse to chance on people's attitudes toward wealth and distribution of wealth. If it were the case that people in-creasingly called upon chance in games or economic activity be-cause they had given up on being able to earn an acceptable living through their own efforts for which they would be justly rewarded, then we would have a real problem. We would also have a very real and major problem if people abandoned concern for obtaining economic justice because they could hope for a lucky windfall. To put the matter in class terms, it could well benefit the ruling capitalist classses to have such quiescent, good luck seeking workers.

It is instructive that people often prefer to lose to chance than to the judgment of others. Discussing allocation of scarce medical resources Nicholas Rescher claims that those rejected by subjective implementation of objective criteria often find their loss more difficult to accept than if they were to have lost in a random selection process (cited by Childress, p. 395). To whatever extent this is true, and however important it is, we should not abandon our pursuit of justice - economic and non-economic - because some people are found wanting by its standards and will feel badly about that. Better to enable people to feel that they are not wanting, with good reason.

The treatment of my subject matter has been of a general nature in these pages; it will be a task for remaining chapters to discern just how the principles enunciated here apply to particular matters. I hope to have shown in these pages that chance is an inevitable part of life, including economic life. We should sometimes try to limit it, but its mere presence does not disentitle. It may even entitle. This does not mean, however, that we should call upon chance to make allocations. We should not abandon concern about the distribution of economic or material wealth. We do have criteria which we as rational moral agents can and should apply. They require us to respect people as labourers and consumers, that is, people who are valuable in part because they are aware of their activity as beings who do not create all of themselves or their circumstances but realize themselves in acting with and upon what they are given - and what they shape and create.

Chapter Seven: Dead Hands and Silver Spoons: Estates, Inheritances and Gifts

Inheritance is the first form of unearned income to which I will give separate consideration in light of the conclusions I have reached concerning desert, equality and chance. I will argue here that inheritances are a matter of one-party luck and deliberate transfers which are not objectionable due to the component of luck or the fact that they are not earned. Again, not all entitlements arise from desert - I have only been arguing that desert is one, albeit one very important basis of entitlement that ought to be respected. There are reasons to limit inheritances, nevertheless.

It is tempting to observe that some people inherit vast sums of wealth which they have done nothing to deserve; they are lucky. Other people are not so lucky. It is also tempting, then, to move to the conclusion that no-one should be considered entitled to receive "significant" inheritances because they constitute unfair head starts in life. Government should tax away or confiscate much, if not all, of "sizeable" intergenerational transfers of wealth.

The issue of estates and inheritances is more complicated than this as anyone should realize as soon as it is pointed out that it does involve two major matters, namely, the transferring of wealth and the receipt of it, each of which is accompanied by distinct considerations. The manner and timing of transfers add to the complexity of the picture: there may be a significant difference between "gifts" before and after death, for example. We open up a whole range of further questions if we choose to focus on the impact on the economy of taxation of transferred wealth, related questions concerning desires to look after one's family, and incentives to save in general. I will take the position that people should have the right to transfer wealth to which they have a legitimate title and to direct their legacies - but when their choices harm others (possibly including inheritors) the state should sometimes intervene. Passing on of inheritances, as well as earlier gift giving, can provide unwarranted inequalities of opportunity - and of positioning in the impersonal market; it can, moreover, increase economic inequality which becomes undesirable at a certain stage for a variety of reasons discussed in chapter six. The appropriate target, then, is inheritors and receivers of gifts, not those leaving estates and giving gifts.

I will present my position by explaining why savings and investments arguments, arguments in support of family ties, and arguments in favour of inheritors' rights and rights of the dead, do not go far enough in resolving the issue, and why harms produced justify regulation of the practice. What may seem to be a case of pure luck is indeed a case of one-party luck and within the realm of state action. As before, this does not and should not require us to wish to equalize or otherwise alter all factors which benefit some but not others without desert on their part. All the same, fairness, justice and the purposes of the impersonal market require us to favour earned income in taxation, and to limit (but not eliminate) inequality.

I. Savings and Investment: utilitarian and family arguments. One way in which to approach the question of the propriety and wisdom of allowing, limiting or disallowing inheritances is to focus on the consequences on the economy of restrictions or prohibitions. If you interfere, some people argue, you will hurt savings and investment and therefore the economy, and ultimately everyone because everyone's well-being depends on the state of the economy. This argument could work if the claim were accurate and moral requirements were not violated in acceptance of the means advocated. As it turns out, the savings and investment argument does not address enough of the related issues, although it does raise an important array of matters such as: the role of savings and investment in a healthy economy; how much concentration of wealth there should be and in whose hands; incentives to accumulate and the effect of partial and compete confiscation of estates and inheritances on them; the incentives and contributions of inheritors and whether they support or contradict capitalism; the purposes of taxation; and the rights of the dead. A number of these issues take us beyond consideration of means to maximize utility or efficiency.

I.1 **Should we maximize savings?** First, what is the importance of saving? Clearly there have been different schools of thought on how much is good, when, in order to maximize performance of the economy in the long term. Keynesian and classical economists have had major disagreements. Rather than attempt to analyze the issue in such terms, however, let us consider a few further fundamental questions. How much of productivity is dependent upon savings and capital investment, how much on other factors? Chester mentions technology and demand as key factors in determining productivity (p. 180). Looking at the other side of the picture, Wedgwood states: "It is clear that much private accumulation is neither the result nor the cause of improvements in productivity, but is merely the outcome of a redistribution of claims to income from existing capital goods or a reshuffling of property values, due to external and fortuitous causes" (Wedgwood, p. 238, cites Marshall in support).

There is a more basic question to ask. Is always-increasing sustained economic output desirable? When we take into account the worth of services as well as the production of goods, I think it would be difficult to dispute that it is, provided that we speak of a per capita rather than global output. The more people there are, the more that they can do, and can have usefully done for them, even if natural resources are finite or shrinking. (Naturally, this leads to the matter of optimal population sizes, something which I hope the reader will excuse me for not addressing here.) There is, nevertheless, a real question of how much of output must be in the money economy. Consider further that the greatest "utility" from wealth may not be a mere matter of how much but also of distribution. In other words, the most economic goods may not provide for the most usefulness or good in people's lives. This is because some "goods" are not good or not as relatively good as their price would suggest; some are wasteful; some are not used at all or very often, and so on.[1]

Even if the standard of utility were the appropriate only or ultimate standard (which I do not accept) it still seems advisable to question what the real, (perhaps only somewhat) less abstract goals are. Are they satisfaction of wants of as many people as possible but not all wants? Individuality? Diversity? Political and personal freedom? Arguments which are apparently for creating the most productive economies possible often fail to be clear about such things. I would doubt that very many persons would see the money economy as an end in itself, and if it is not, then some of total output should or at least could sometimes be sacrificed. Someone might get around this by speaking of satisfactions, leisure, social calm and harmony, personal contentment, absence of frustration, etc. as part of the output of the economy but doing so would negate arguments for maximizing savings, investment and the money part of the economy.

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[1] There may also be some truth in the claim that the marginal utility of increments of wealth depends upon the amount already possessed (see e.g. Wedgwood, pp. 30-32, 80; Haslett, p. 135 & fn). A more equal distribution may result in more total happiness than the largest possible amount of wealth, assuming that greater equality could diminish the total size of the pie. This last point may be wrong; the wealthy might get as much satisfaction from each increment of wealth as the poor do. I do not know - and do not need to know. Maximization of happiness is not my primary concern.

I.2 **Intersection of savings and family considerations.** Suppose that we ought to give priority to encouragement of saving. Must it require non-interference with inheritances? Many people advance proposals for savings other than through unregulated estate transfers. One suggestion is to create investment pools through inheritance taxes (Michael Levy, 557-8) which could pay annuities for one generation of heirs of those taxed, and/or benefits to others by making loans or supplying funds for financing an education or starting a family. Others have suggested that inheritances revert to the state, which could maintain the same investments or sell them and reinvest in growth sectors of the economy (e.g. Crosland, pp. 310-11). Still others have proposed sales of interests to workers of operations the deceased owned in whole or in part (e.g. Haslett, p. 154).

Those against interference with inheritances seem to have two main objections to such proposals. First, they either place too much economic wealth and power into the hands of the state or large corporations (see Levy, p. 551), or disperse it too widely. Second, they discourage risk, remove incentives to accumulate and decrease the total amount of savings. As part of this objection they may well include the point that family ties are important economic motivators.

Richard Wagner and others maintain that people in a capitalist economy save and invest, and accumulate capital in excess of that which they need to support themselves, in order to pass it on, usually to family members. Disallowing the practice of leaving bequests would greatly diminish the incentive to accumulate (e.g. p. 22), it could well result in searches by the well-to-do to advantage their families in alternative ways, such as bequeathing positions.[2] Disallowance could threaten the family bond itself as well (p.

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[2] See pp. 16 and 85 where he reiterates points made by Hayek in The Constitution of Liberty, p. 91.

22, 85) (although it is doubtful it would do both of the last two, a point Wagner does not consider). Wagner and others also express concern about the perpetuation of family-run farms and other businesses.

Each point can be addressed. Wagner himself recognizes that taxing bequests can act as an incentive to accumulate even more in order to leave behind enough to cover taxes as well as a bequest (although the rate of tax can at some point discourage completely -see pp. 18-19). This is not relevant to arguments against the leaving of any inheritances, of course. In any event, as Chester, Wedgwood, Read and others point out, the desire to leave wealth to others is often not the main factor motivating saving and investment. Many remaining spouses and never-marrieds as well as childless business-people accumulate wealth; many of these as well as those with children are driven by the challenge to succeed, the drive for social status and desire to obtain and exercise power in the economy and society.[3] Indeed, the desire to pass on material wealth may well be the desire to pass on more than what may be sufficient to help dependents establish their own way in life; it may be a desire to give power to someone else - and so making the point about alternative outlets for helping one's own may simply be a failure to realize one aspect of unrestricted inheritances of wealth that some people, including me, find troubling. I will return to this.

Numerous proposals have been made and enacted to respond to arguments for family considerations. They have included somewhat to much higher rates of taxation of bequests made to persons outside of the immediate family (see Wagner, pp. 94-5). Others have included accommodations for family farms and family businesses (see Haslett, pp. 138, 150; Chester, p. 111;

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[3] See Ireland, p. 421; Chester, pp. 6, 77, 182-3; Wedgwood, pp. 231-2; Crosland, p. 305; Read, pp. 114-15, 130-1, 252; also 171, 172, 180, 181, 184, 258, 268; Haslett, pp. 144-5.

but cf. Crosland, p. 315n). An additional possibility is to provide favourable treatment to such farms and businesses as long as they remain in the hands of family members but to treat them as all other bequests at the time that any family member should sell or give ownership to others (see Levy, p. 558). Adoption of such proposals would allow us to implement one or more of the alternatives to passing on of estates which are designed to encourage saving and investment. The family concerns objections would no longer stand in the way.

I.3 **Claims to property rights and incentives.** Some critics argue that the practice of leaving estates works against capital accumulation. Ronald Chester and D.W. Haslett both maintain that inheritance conflicts with the ethos of "rewarding service" in the marketplace; inheritors have usually done nothing to earn their wealth, and may in fact have less incentive to contribute to the economy than if they had inherited nothing - because they may have no hunger, no need to earn more; they may be set for life without doing any work, "real" or not.

People taking their approach (as well as others such as Wedgwood) either do, or could do well to endorse aspects of proposals like those made by Rignano which would tax at death transfers of previously inherited wealth at one high rate and those of "earned" income at some substantially lesser rate, possibly with a view to requiring any particular inherited wealth to be passed on only once (twice?), as rates escalated with each transfer (and, of course, "earned" income becoming inherited income after one generation).

Such arguments in favour of capitalism and in opposition to inheritance make a great deal of sense if capital accumulation is taken as the standard, although they may fail if it turns out in practice that when such plans are implemented the loss of incentive for those who do not see the world that way exceeds the gain in new activity by those who inherit less than they otherwise would have. But the arguments fail without much doubt if the defenders of non-interference with inheritance adopt as their position the view that those who are rewarded by the market are entitled to their earnings and ought to be able to spend their money or give away their wealth as their right. This, naturally, leads to questions about rights of the dead, inheritors and other matters.

II.1 **Do the dead have rights?** If you take "rights" to be something which people must be able to choose to exercise or waive, something they can change their minds about, of course, the dead cannot have them (or at least they cannot communicate to us in a reliable way that can be confirmed that they wish to have them exercised in a certain way). Consequently, when I speak of the rights of the dead, I will simply be referring to valid claims that someone can make on their behalf.

We ought to respect the dead and some of their wishes. I do not say this on disingenuous utilitarian grounds like ones pertaining to the happiness which comes to the living from "knowing" their promises will be kept - whether they in fact are, the key being that people believe they are kept. Nor do I say this on the grounds that non-compliance with the wishes of the dead may cause offense to (or unhappiness for) the family members, friends, associates and any others who may care who are left behind. This would leave too much to be determined by the presence or absence of good will of these people. I say we ought to respect the dead, then, on the same grounds that we ought to respect the same persons while they were alive. Each person is valuable for what he or she does, thinks, believes, feels and means to others and could be, as well as for being a part of "us" and being partly created by "us". But clearly once someone has died, that person is no longer evolving, and our thoughts and feelings can only be towards a person who once was actively among us. There is no new respect owed, no new reasons for developing affection which did not exist before, and none which can be a matter of obligation.

So we owe respect to the person as he was, but no surrender of judgment we did not owe before. It does make sense, though, that wishes with respect to who is to exercise judgment over which pieces of property be followed - with a qualification that unacceptable harm not be done. For if someone living is entitled to the property he possesses, then no-one else has as strong a claim to it. Someone who is the legitimate owner of something has a right to transfer it to others provided that he does not cause unacceptable harm and he does not evade his own obligations in the process.[4] And when an owner of property dies, we may reasonably wish to respect wishes concerning dispersal as a last and concluding gesture to what he was and wanted. We can grant him that much if he was the rightful owner, especially if we let people believe that these wishes will be respected, and do not present them with the option of taking alternative measures when still alive.

Should we not grant them more, if we grant them this much? The dead can have and do have rights not to be falsely spoken of, and to have recognized their proprietorship of non-material "possessions" such as the authorship of ideas and as well of their financial and other support of causes and indeed all their deeds. This is as far as I can see that we should go. Rights to post-mortem control of property are highly questionable. Material things are to be used, and the use made of them is good or bad according to what those using them do; neither credit nor blame should fall upon the person who had owned them. He cannot be made better or worse although his memory, reputation, or image can be harmed or benefited by the respect or disrespect shown toward who he was.

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[4] As I believe that this is generally a noncontroversial claim I will not attempt to elaborate upon it and defend it here. What constitutes unacceptable harm is more controversial. I presented arguments in the chapter on equality and I present more in this one to set out what I think are some unacceptable harms.

Allowing dead hands to reach out from the grave would be a grave error. Those planning ahead can only have very general wishes with respect to grandchildren they do not even know would come into existence, for example. Also, while alive, people can wish that their donations be used for specific purposes indefinitely, including charitable ones, but how much should we want to comply with such wishes, given that they could well want to change their directions could they know what they in fact never could - that is, what happens after their death (cf. Mill, Principles, Vol. I, Book II, ch. 2, s.4, p. 223). To look at this from another angle, how reasonable is it to expect that those who continue living should have to follow the wishes of someone to whom they can make no appeals? Life, I have heard it said, is for the living.

You may counter that it is a different matter if someone or some organization accepts a conditional bequest; then it is a matter of keeping promises. But then again, there is no reason to require every promise to be kept, including those we cannot seek to be excused from because the promisee has expired. Some promises ought not be kept once we see good reasons not to keep them.

The rights of the dead are limited, then. The rights of the living usually ought to take precedence. This still leaves open the possibility of rights of inheritors. These, however, are limited by consideration of the rights and well-being of other people who are living.

II.2 **The rights of dependents and surviving spouses.** It may seem strange to suggest that persons other than the holder of property rights can have rights to the same property upon the rightsholder's death. Nonetheless, good arguments can be made for such rights, whether or not arising from express promises. If someone builds up a business, a property, a career even, with the only partially compensated assistance of a wife or husband, children, other dependents, or other workers, then death would seem to be a fitting time for settling accounts, unless the property in question was already a joint possession. But as Mill pointed out many years ago: "Property is now inherent in individuals, not in families: the children when grown up do not follow the occupations or fortunes of the parent..." (Principles, Book II, ch. 2, s. 3, p. 219).

Family members and other dependants may be entitled to support, but that is not because of death of their provider, nor should that extend beyond what is necessary to help the dependents become independent and responsible for their own way in the world. If they should be fated to be dependent indefinitely, that would be another matter. But shouldn't children and spouses be entitled to be established in the same manner of living they are brought to be accustomed to? (cf. Mill, p. 222) Somewhat similarly, is it not the right of near ones left behind to inherit estates because they expect to do so, which a change in law would deny? I can see no reason for an affirmative response to either question. This is not to settle the matter of whether the deceased should be able to grant them such a standard of living or some higher one if he wishes, and to this matter I will turn my attention next. First, let me mention in order to dismiss any suggestion that persons who are related by blood but are not financial dependents should have any right to claim portions of estates which are not left to them in wills, excepting perhaps certain items of sentimental value: this would include distant relatives, brothers and sisters and even children once on their own.

My answer to the hanging question is, in short, that those leaving wills ought to be able to leave what they wish for whom they wish, and those persons named should be seen to have a right to receive whatever that might be - on the condition that others are not seriously harmed, and the beneficiaries contribute their fair share to just taxation. Elaboration follows.

III. **Harm to Others: Equality of opportunity, inequality, and the impersonal market.** People who are alive may not, morally speaking, do whatever they like with what they own. There is no reason to think that this would not apply to gifts people give while alive. The fact of moral restrictions could hardly be thought to disappear with the occurrence of someone's death.

III.1 **Possible harms to inheritors.** When people transfer property through gift-giving the most obvious person to whom they might do harm is the recipient since he is most directly involved. Although many different kinds of harm could be produced (such as culpably disappointing expectations, mismatching the nature of the gift and the person, attaching unreasonable conditions and the like) the most major ones would change the direction of the recipients' lives for the worse. Giving too much money or too many or the wrong responsibilities would be among the worst of these, and the very worst, the gift of too much money without responsibilities. If someone has more than enough money to live comfortably without working, he may just not try to accomplish anything. Granted, incentives can come from various sources, and financial need is not the only one. The need for parental approval, self approval, the desire to obtain the rewards of success of other persons one has admired and other needs and desires can motivate. We might also wish, in the case of adults, to grant that they have the intelligence to decide whether receipt of a gift would be too much for them to deal with. On the other hand, we might decide that large sums distort judgement, and paternalistic restrictions on amounts people could receive would be no violation of property rights since recipients do not have these (with respect to property they have not yet been given), and if they were put in place the donor could retain the right to allocate his largesse - he'd just have to choose more beneficiaries. I am uncertain about legislated limitation of gifts on these paternalistic grounds, but as we shall see, other considerations are clearer and weightier.

III.2 **Equality of opportunity.** Opponents of ("large") inheritances very often ground their opposition in the observation that inheritances substantially increase inequality of opportunity. They are correct in a general sense, although the arguments need to be based on something more than mere fairness; they need to be very specific about which kinds of opportunity are involved and their place in the justification of the impersonal market. They also need to be supplemented by consideration of the relative equality of workers and consumers in impersonal markets. But, as I indicated earlier, the ultimate goal should not be "equality of result".

Gifts during life and upon death can interfere with equality of opportunity in two ways - they can interfere with equality of opportunity to obtain particular employments if they are gifts of business ownership; they can interfere with equality of opportunity to obtain employment in general. As I argued in chapter five, there is no right to equal opportunity to obtain positions in private operations, but the number of these is limited by the size of the enterprise and the public involvement both in providing infrastructure and a client base.

People who inherit significant sums have opportunities others do not, i.e. ones dependent upon having access to large amounts of financial capital. They also have more opportunity to make themselves qualified by obtaining expensive training and needed medical care (especially but not only where there is no universal public health insurance - see D Haslett, p. 131n), by hiring assistants, travelling to conferences and so on. This is not only because they have more money to pay immediate expenses; they are also not as subject to a need to work all the time to make ends meet, which can make time to train or seek out other alternatives a scarce commodity.

Giving someone a head start in a co-operative institution such as the impersonal competitive market is wrong if it gives somone an advantage in seeking all kinds of employment, not just particular ones. This is to be considered along with the fact that excessively unequal opportunity may impede the optimum functioning of the market, meaning the optimum satisfaction of wants and needs which should be attended to.

Several points Haslett makes are significant here. He states that "the more people there are who come to realize their productive potential, the greater overall productivity will be." Moreover:

> ... the more people there are with an excellent opportunity to become something other than an ordinary worker, the more people there will be who in fact become something other than an ordinary worker or, in other words, the less people there will be available for doing ordinary work. As elementary economic theory tell us, with a decrease in the supply of something comes an increase in the demand for it, and with an increase in the demand for it comes an increase in the price paid for it. An increase in the price paid for it would, in this case, mean an increase in the income of the ordinary worker vis-a-vis that of the professional and the entrepreneur, which, surely, would be a step in the direction of income being distributed more justly. (p. 129)

Haslett ought to have said, perhaps, "more equally", but there are good reasons to suppose that a considerable amount of inequality is unjust, and so greater equality will likely be more just.

Haslett goes on to make the valid related point that the rewards of high-paying occupations are very likely inflated because of the informal barriers to entry to them, that is, due to inequality of opportunity and the artificial scarcity of persons available (130). Consequently, however just or unjust "equal opportunity" may be according to other criteria, it can make remuneration from work more just. We should, however, be wary of going too far and embracing the idea that all occupations should be open to all who are interested in pursuing them because the market can undervalue some occupations - the labour market is not "the" determinant of how useful a kind of work is.

III.3 **Other harms.** The other harms excessively large inheritances produce are the harms caused by excessive inequalities of wealth, whatever their origins. One of these is stated by Haslett, who says that "gifts and bequests, and the enormous concentrations of economic power resulting from them, create such great differences in people's 'dollar votes' that the economy's demand curves do not accurately reflect the needs of the population as a whole, but are distorted in favor the the 'votes' of the rich" (134). But in addition to this effect on what is produced, there are also other effects which I discussed in chapter six. Large inequality of wealth affects not only what is produced, but also at which price certain items sell and at what price some will buy. The economically powerful also use their might to impose working conditions and influence public policy concerning their interests. Just how much of domination and even oppression is the result of inequality of wealth, and wealth which has been inherited, and how much is the result of other causes, is an important empirical question. The evidence is strong to suggest inherited wealth plays a major role in the events of a number of countries, including industrialized ones. Some people not sympathetic to the concern with harms from inheritance question the basic assumption that there even is significant inequality, however. Does it exist?

IV. **Is inequality overstated?** There are those, such as Richard Wagner, who will say that opponents of inequality, including that occasioned by inheritances and gifts, overstate the extent of inequality in western society. They will argue that when you take into consideration: people's lifetime earnings and age distribution at a given moment (Wagner, p. 24); years of deferred income when receiving an education; the depreciation of capital and the need to constantly rebuild it (Wagner, pp. 10, 32-38); wealth transfers by the state through taxation and social programs; and the non-monetary equalizing factors of different kinds of employment;[5] there is not really all that much inequality after all. These may indeed be reasons to suggest that inequality can be overstated, but they should not be uncritically accepted. Not all capital depreciates; some certainly appreciates. Not all employments have counter-balancing benefits, as discussed before. Whether or not this means the market, or the theory, is imperfect, some of the dirtiest, physically demanding jobs are among the poorest paying. Some of the most lucrative ones are the most satisfying. It is a mistake, in any event, to speak only of things like progressive taxation, and not to mention tax breaks and government grants and loans to business, labour laws, and wealth which is not treated as "income". Also, as important as non-monetary rewards are, they differ in kind. Some remuneration is more readily translated into economic power, and that is a legitimate concern.

V. **Taxation remedies.** On the basis of the preceding, I conclude that if someone has wealth to leave that he rightfully possesses, he ought to be able to leave it to whom he wishes. If the amounts are small enough for each recipient, whether or not the donor has died, there is no injustice done. Let the rightful owner be responsible for his decisions; let the beneficiary be a winner of "one-party luck". That said, if the amounts have not been duly taxed before transfer, or are excessive once in the hands of recipients (taking into account their existing wealth), then there are good grounds for at least partial expropriation by the state. The distinction between gifts and inheritances is largely irrelevant. Defense of taxation is not.

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[5] See Wagner, p. 24; Posner, "Economic Justice & the Economist", p. 355; cf. Okun, p. 72, Barry, "Equal Opportunity", p. 36.

First, taxation of some sort is both necessary and justified. It is necessary to accomplish the legitimate goals of the state, however narrowly or broadly conceived these may be. Taxation is necessary for providing defence, police, legal, public health and safety, transportation and other services, to name some. The state is justified in imposing taxes to pay for these if people benefit from them, although this (the fact of benefiting) alone does not constitute a sufficient justification in all cases.[6] Taxation of incomes is justified because incomes are earned with the assistance of such services (including education, training, government management of the money supply and the economy in general, etc.), and the use of publicly owned resources; user fees do not and cannot always accurately recoup such benefits. Similarly, taxes may be imposed which work as user contribution collections, such as when gasoline taxes are applied to road maintenance and so-called sin taxes go (in theory at least) toward health service provision. Taxation also serves other purposes, however, such as obtaining from citizens their contributions to collective responsibilities, including humanitarian ones which should not be left to private charity alone because the ungenerous should not be excused nor the generous overburdened; some element of ability to pay can be justified here. And then there are clearly the punitive and intentional disincentive functions of taxation; taxes are imposed to decrease while not prohibiting consumption of certain goods, because their consumption is recognized as acceptable in moderation, or inevitable and control is the best that can be hoped for. I do not deny that some taxes are justified by rhetoric which does not apply to the particular case, nor that the amount and range of each kind of taxation that is justifiable is open to reasonable disagreement. Nonetheless, some taxation is justifiable and necessary, given both what we get from and owe to others and society.

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[6] A sign of consent to be benefited is sometimes necessary, but I will not venture here to say when that is. That consent is not always required is sufficient for present purposes.

It is true that people will try to avoid paying some taxes, and some will be more successful than others in doing so. Consequently, the best thing is not only to impose justifiable taxes, but ones which can also be collected fairly. Taxes which are easily avoided by most people or a particular segment of society could hardly be seen as good taxes. Taxes which could be avoided but are accepted and paid by most people are another matter. It would seem, in fact, that underground economies are not limited only by the extent of the likelihood of being caught by tax authorities.

Yet when taxes are accepted they are only grudgingly accepted for the most part. Taxes are not popular unless maybe imposed on someone else. But if they are to be imposed, they must be imposed on something. Is there any particular reason to be more concerned about the disincentive effect of estate or inheritance taxes? Is inheritance something to be uniquely exempt? Should we take capital gains and accumulated wealth to be somehow different from income? Should we concentrate on consumption as a measure of what individuals arguably take out of the pool of social resources?[7] What about gifts? And other "unearned income" (eg lotteries, and winnings from gambling and speculation)?

When we talk of inheritance taxation we are talking about taxation of transfers at one end or the other. Taxation of estates can be justified primarily on two grounds. The wealth they include has not been taxed in a manner equivalent to that of other similarly gained wealth; the wealth involved ceases to belong to its previous owner upon his death because of his change in status. The first ground is reason to assess and collect capital gains, as capital gains should be taxed when they are realized, if not at some regular interval.[8] When someone dies he cashes in his assets, in the sense that he stops using them, and trades them in for all that they are worth at that time, in order to obtain the good of passing them on. If his assets have appreciated, he should be taxed just as he would have been had he cashed them in earlier. (Wagner, pp. 44-45, argues against taxing capital because increases in its value only represent increases in income earning ability, and only actual income earned should be taxed, but he thereby ignores the fact that the seller or collector is receiving something in addition to past income at the time of sale.)

If progressive capital gains taxes are justified during life, then they are at death.[9] If our concern is that incentive not be dampened, even by justified taxes, then a case can *still* be made that a higher degree of progression should be attached to estate (capital gains at death) taxes, because the thought of what happens to our wealth when we are no longer around quite possibly strikes our imagination less forcibly than impacts upon our own plans we expect to be around to carry out - not to mention that many people cannot anticipate when they will die nor think of their own death as a future reality (cf. Wedgwood on Pigou, p. 228). I do not see a higher rate of taxation at death as equitable, however, *if* we treat estate taxation as capital gains taxation collection. Certainly there would be no argument for a capital gains *and* estate tax or complete confiscation.

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[7] See Rawls (Theory, p. 278) who cites N. Kaldor; see also McCaffrey, pp. 299-300.

[8] The main reasons I can see for, e.g., an annual wealth tax are to attach a fee on economic power, and to make certain that tax contributions to be made are not evaded by taxing capital gains all at once.

[9] Wagner (p. 37) argues they are undesirable because they encourage safe investments; people will not risk large amounts of money for small chances of making small gains.

Complete or nearly complete confiscation would have to rest on the contention that the dead are very different types of "beings". If we were to contend that the dead cease to have property rights, and, say, rights of transferring property were merely conventional, as Chester does (e.g. 19, 25, 35, 116-24, 128ff.) then the living could, naturally, only base their objections to estate taxation on other grounds, such as promises to heirs, political liberty, freedom from bureaucracy, social utility and so on. Previous points I have raised would bring into question the claim that even complete confiscation would cease or even necessarily greatly diminish accumulation. Undoubtedly, many would try to exercise some significant control over the distribution of their wealth. They might, for example, make large gifts in anticipation of their death. Would the state be justified in taxing these as a form of tax evasion? (In some states gifts have been subject to estate taxation when made within the last three years before death - see Wedgwood, pp. 244, 248-50; Chester, p. 172). Clearly the case for such taxation is dubious *if* the justification for estate taxation were to be the cessation of property rights upon death.

Another possibility is that those with sizeable fortunes would spend much of their wealth in other ways in anticipation of death in order to avoid estate taxation. This could be countered by progressive consumption taxation, which would keep more wealth in investments (see, e.g., McCaffrey). While perhaps pleasing those in favour of taxing consumption as withdrawal of goods from the common stock, and others who favour taxation of expenditures of the wealthy, or any activity of the wealthy that can be reached, again, this taxation could hardly be said to be justified as a means to reach estates. Either such taxation is justified in its own right or not at all. If someone is to lose property rights through death, it scarcely can be said to follow that he loses them before death as well.

Consumption taxes are commonly and correctly considered to be regressive when assessed at a flat rate. Progressivity could be built in by taxing more expensive items or certain categories of goods at a higher rate. It is difficult to imagine taxing accumulated spending progressively, however. More importantly, spending, i.e. personal consumption, is not the only or even primary concern presented by concentrations of wealth. Consumption is sometimes rather desirable, for that matter.

I do not see a case for non-capital gains death taxes, then, nor the desirability of consumption taxes. My reasons, given here, do not depend on a concern to preserve incentives to accumulate. They would not seem to be jeopardized by taxation of estates. Total savings might not be reduced even with a disincentive effect. There are intelligent enough minds to devise alternative means, although I am not as confident about the will to seek and use them. On the other side of the coin, the dead may have property rights which might inhibit accumulation; if this is the case, it is unobjectionable. I do see a case for inheritance taxes, however; it does not depend on the luck of beneficiaries or the fact they have not earned what they receive.

The case rests primarily on a concern to address the harms of inequality. In societies in which basic provision of education, training for the workplace, and health care are not made available to all, special concern about effects on equality of opportunity is called for. In all societies, the dangers of inequality of wealth are significant. I have said that this does not depend on the source of wealth; it does not depend on how much or little an inheritor has before inheriting, or where he obtained that. The total is of most concern.

Concern with inequality is not the only reason to look at total wealth, however. Those with more are able to pay more. I do not think it unreasonable in a community in which people care about their fellow citizens that those able to contribute more to public purposes (including help for the needy) be required to do so (cf. Mill, Principles, Book V, ch. 2, s.2, p. 808). It would also make sense to imagine that those with more wealth benefit more, because they have more to be protected, and should therefore pay more. That they could better afford to provide for their own "needs" than the poor does not mean that they do not in fact benefit more (although I am not convinced they could be wealthy without government) (cf. Mill, Principles, pp. 807-8; "On Liberty", p. 61). I am sympathetic, on the other hand, to the complaint that those with more should not necessarily have to pay more just because they have happened to save more, or invest more wisely, or refrain from squandering what they have. Still, this is not sufficient reason to abandon progressivity; it is reason to make distinctions between kinds of wealth. It is reason to treat earned income, which inheritance is not, somewhat more favourably in matters of taxation, especially at lower levels of wealth.

I wish to introduce another claim in the other direction, not to be indecisive, but to give all considerations their due weight. Wealth which is literally found, as well as that which is the result of one-party luck, does not require the use of social resources to come into the hands of the finder or recipient of a gift. As this is only one among a number of valid principles applied to taxation, however, it has only limited weight.

Another point is more important than this last one. Earned income is valuable not only because it is earned, that is, is generated during the production of goods and services that provide for other people's wants and needs as well as one's own, but also because it is earned by people who we should want to be earning and utilizing their abilities. Taxation should not be a disincentive to this but rather an incentive. Such a consideration cannot apply to inheritances, other gifts, or certain other forms of unearned income.

Taxation of earned income then is a kind of requirement of a double contribution if not "double taxation". This is justifiable but also reason to ease up on taxation of earned income in comparison with other income, including that received as gifts. This conclusion is important apart from considerations having to do with inequality, which, I reiterate, are of major importance.

Chapter Eight: Desert, Chance, and Capital Markets

I will conclude this project by looking at an area of economic activity that has been condemned because of its said likeness to a casino, an area which generates forms of unearned income arising from chosen chance. In order to evaluate the justice and injustice of returns from capital markets I want to examine which, if any, returns from these markets should be considered to be deserved. I also want to work towards an evaluation of returns which are not deserved. I will once again not condemn income simply because it is not earned and chance is involved. I will raise the possibility that some practices producing unearned incomes should be censured anyway because of their effects on deserved returns, their employment of chance when more responsible methods of managing financial resources is called for, and their exacerbation of inequality. I will also question the usefulness of a number of kinds of activity, but will withhold judgment on the moral significance of their possible inefficiency.

I.1 **Articulating and selecting moral perspectives on justice in financial markets.** The number of dollars involved in stock and other capital or financial markets, and the effects of trading in them on people and the economy are tremendous. Very significant questions also arise about the justice of the distribution of related earnings.

It is the latter I wish to focus on. In the texts, guides and critiques and even ethical analyses I have been able to look at to date, it is far too often neglected. Justice is seldom if ever directly addressed in discussions of the markets which almost invariably have as their topics who wins and loses and how, how to win (or not lose) yourself - and when moral matters are viewed, what manipulations and deceptions are employed, the role and actions of management, the consequences of takeovers and a few other matters. They do not address these as matters of justice, that is, as either matters of desert or reciprocity in exchange. Nonetheless, in the reading I have done so far commentators often do make moral assessments of the markets themselves and not just of actions identified as abuses that need to be cleaned up. They seldom make systematic, explicit judgments; they seldom use moral language; but they do make them. They base them on one or more of four undiscussed assumptions: 1. most capital market activity is useful, the markets are efficient; 2. investors are entitled to their share of the profits; 3. much or most market activity is a matter of gambling or speculation, which whether or not exactly the same thing are both bad; 4. much or most market activity is unproductive. (Surprisingly little that I have seen defends market transactions as the exercise of private property rights with which others including the state are not entitled to interfere. Could this be because the trading is assumed to be very much "public" or social and not private? This could simply be one of those matters those busy trying to make money do not have the time to stop to think about. It deserves our attention.)

These moral assessments, especially the second and third ones, are relevant to my task which I set out here, namely, to raise questions which will help us work toward resolving the matter of what a just distribution of earnings and unearned returns from the stock (and related) markets will look like, and to raise questions about the effects transactions in these markets have on what is deserved within them as well as outside of them.

I will take the non-utilitarian position that we ought to work to ensure, whether through the ordering of the economy, tax laws or other legislation, that those who have done useful things are rewarded in proportion to the things they have done. It may turn out to be the case that a just distribution places wealth in the hands of people such that the economy is not as productive as it might otherwise have been, and we ought to accept that. This would not mean that production of useful things is not valued; it would mean that the pursuit of productivity is not so valued that whatever means, whatever distribution, whatever methods "work" are acceptable. It matters that we pursue the most good within the framework of moral constraints. As I argued before, if we decide that a way of doing things is very useful, and net usefulness is our criterion, we may needlessly assume that no other way of doing things could be as useful (let alone more productive). But if we rule out some means in advance, we may well look harder for alternatives, and actually find one just as "good" and indeed, just.

One of the dangers the market defenders arguing for the market's usefulness or utility face is that if it is shown that other means are more useful and contribute more to the economy, the stock market stands without justification. There is a need to consider the question of (property) rights to do what is not (relatively or most) useful.

I.2 **A word to market foes.** You just might conclude at some point (if not in advance) that all of these markets are fatally flawed; they are, for example, integral (unjust) elements of an unjust capitalist system, or they are unproductive and inefficient or inherently unfair, manipulative or corrupt. Rights arguments cannot save them. I encourage you to continue reading anyway. Even if you are right, there are still many factors at work which lead to very important questions about chance, desert and economic justice the answers to which may be very significant for practices in other areas. More to the point, if we look, as I will, at justifications for and/or objections to investment, speculation, gambling, pyramid schemes, and insurance, we should be better able to say which underlying concerns are valid and which are not, and then we will be in a better position to carry our analysis forward to other practices whether part of currency trading, real estate, health insurance or other affairs in which questions about chance and merit or desert arise.

I.3 **The argument.** I will argue that the raising of capital for productive enterprise ought to be done in such a way that people inside and outside of capital markets make exchanges for equivalents and are not prevented from obtaining what they deserve. People should not gain improperly at the expense of others. The role of social institutions includes facilitating the meeting of these objectives and seeing to it that the markets do not promote "greed" nor inappropriately exacerbate inequality. Apart from these matters, there is a real question whether a society is wise to use capital markets as they exist to raise capital. Whether using less than maximally efficient means is immoral is a question which I will not attempt to answer here.

I believe there is reason on the basis of the preceding to justify some returns from stock market investment in both the "primary" and "secondary" market, to limit stock market speculation, to call into question returns generated from corporate takeovers and from options and options trading, to limit futures market speculating and maybe even hedging (i.e. to promote alternatives to futures markets), and to stop trading in index futures. Instruments to diminish or manage risk which are also used to gamble and speculate, and which affect adversely just returns should be reformed or abolished. Assertions of rights to do as one wishes with one's own have limited applicability to these very public markets.

I offer my conclusions in the hope of stimulating further discussion of issues of justice and morality in financial markets. I do not desire to claim an expertise that I do not have. Consequently, I wish to signal here my appreciation of the existence of many empirical and technical matters of which further knowledge could well cause me to change my assessments. I have more confidence in the moral arguments I advance, but as always, they too stand open for improvement - in part, in light of the findings of experience in markets such as those I examine.

II. **Justice of Ordinary Stock Market Transactions.**

II.1 What shareholders deserve. Market proponents often speak of the primary function of the stock market as the raising of needed capital to fuel productive enterprise (see, e.g. Stewart, pp. 5, 137). Some people may speculate (some may gamble); some speculation may even be useful, but everything is subordinate to the goal of providing capital (which is a means to yet another end, but this need not preoccupy us here - as long as we keep it near the front of the back of our minds).

The stock market is a vital means (it is said) for people to invest in corporate development, and, appropriately, to receive a return on their investment. The return (over the long run at least) should be determined by the worth of the companies invested in. Shareholders will receive regular dividends as their shares of the profits, and realize capital gains from increased values which result from the increased profitability of the companies (meaning from increased dividend-paying potential).

There are a number of ways used to measure "true worth" or fundamental value of shares. We can look at the dividend yield (the percent of share prices paid back in annual dividends), the price/earnings ratio (the ratio of the price of shares to the earnings of the company per share, not all of which is usually paid out in dividends), or the book value of the company (the difference between assets and liabilities divided by the number of shares outstanding, i.e., owned). Then we can consider factors such as whether the company is increasing "earnings & dividends faster than the growth rate of the general economy" (Little & Rhodes, p. 107), that is, whether it is a "growth stock"; interest rates; "the quality of management, the sophistication of products, the strength of competition, patent protection, the capital intensive nature of the business and so on" (p. 116). Consequently, we can estimate what the long run value of the stock is likely to be, all of which hinges, presumably, on the profitability of the company and its capacity to pay dividends.

There is a happy coincidence between a useful social institution and the justice of distribution which follows from it. Even though I do not know of anyone articulating the point in just this way, it seems to be a pretty standard claim. People who direct money where it is most needed, and profitably used, earn the most. I will call this the "happy coincidence argument".

Let us suppose that investors receive their earnings because they provide the needed capital, at least some of the time. Should we assume that the shareholder deserves (or is otherwise entitled to) what he receives? Is the answer too obvious, making it even absurd to ask the question? First, note that there are different types of shares. Preferred shares usually come without voting rights, "usually cost more... and do not usually provide the same risk or reward by way of capital gain or loss as common stocks" (Stewart, 84) Those holding them have preference in payment of dividends and in the line-up of creditors in the case of dissolution or bankruptcy (although banks and bondholders as secured creditors come ahead of them when a company shuts down). Common shares are usually voting shares; holders usually receive quarterly or annual dividends.

Should shareholders, then, receive approximately the rate of interest for their investments "over the long run" (see Brenner, p. 93)? That would seem to be a generally satisfactory claim, although we may ask why people should receive interest, and perhaps more importantly what rate of interest, but I do not wish to detain us on that point. People should receive interest because the borrower gets use of the money loaned or invested. Also, lenders should be compensated for the declining value of money due to inflation. The return to lenders should be limited, though, as it is others who (try to) make something more of it.[1]

I may be mistaken, but I have the impression that people generally "invest" in the stock market for reasons other than obtaining the prevailing rate of interest. If they want to receive interest, they can put money in a bank savings account or take out term deposits, for example. Therefore I assume people go the stock market route either to obtain something other than mere monetary gain, or to seek greater gain than possible from bank deposits - or to do both. Should people be able to receive more than bank interest? They should if they do more than simply loan money. Perhaps people who buy common shares should also receive some kind of premium for the risks they take. We should look at the nature of the risk and whether it should be encouraged.

Shareholders should be rewarded for providing capital to enterprises that should be funded; they direct their capital wisely. Leaving aside for now the matter of how much money actually goes to "productive enterprise", let me comment quickly that not all "successful" businesses ought to be and so just because a company makes profits does not mean that it is doing something (socially) useful or as useful as what someone else might do instead. Be that as it may, non-harmful participation in the economy can have useful spinoffs for many people, and therefore the people responsible may be entitled to some level of (extra) financial reward. And the more someone contributes to the success of the company (in doing useful things and/or providing useful spinoffs - e.g. direct jobs, training, spending in the economy) the more they should receive. This leads us to participation in control of companies one holds shares in.

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[1]. It is said that interest is justly received as the return on the lending of money as deferred consumption, given people's preference to consume in the present and discount future use. But as Shaw (Intelligent Woman's Guide, pp 252-3) remarks, the point about deferred consumption begs the question of whether we should ever pay to have someone keep something of ours so that we can use it later; we may well have more money than we can possibly use in the present - apart from "investing". If we were to look only at supply of and demand for capital, in any event, we would not be looking at the whole picture, and quite possibly not the most important part of it.

The problem here is that there may be many, many thousands of shareholders with a right to vote. If your ownership is of a minimal fraction, then you are limited in how much impact you can have on the company, and indeed, in how much right you have to try to influence or determine its direction, and therefore in how deserving you can be. Of course, if you hold a sizeable number of shares, then the picture could be very different for you, and we could increasingly speak of responsibility.[2]

If you do contribute more than loaning capital (we should keep in mind you may in fact do less than this as a shareholder, as will be discussed shortly), how much more than other shareholders should you receive? Should you receive something like a consultant's fee - even if not a member of management? Or should other shareholders simply receive less?

II. 2 Luck vs. performance and the role of government. If rightful owners of (shares of) a company involved in a natural resource experience gains because of a natural disaster, I have in effect already argued, this provides no reason to wish to deny them their good fortune. It is important to keep in mind the responsibilities that may accompany good fortune, nonetheless.[3] On the other hand, we should not be too quick to attribute changes in "fortunes" to luck. If a company profits from new developments in a related industry, it may well not be a matter of luck even though it may appear to be. Similarly, a company (and its owners) that loses out because it is superseded by new technology making its product obsolete (typewriters, for example) may not simply be unlucky; it may well have failed to adapt or otherwise deserved to disappear.

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[2] In a 1976 work, Ralph Nader, M. Green and J. Seligman (p. 211) cite information suggesting that considerably less than one percent of shareholders attend annual meetings.

Also, what may appear to be good or bad luck, may be the doings of government that is responsible to see that "desirable" industries and businesses are promoted and others phased out or discouraged or prohibited. Governments, of course, have many instruments at their disposal, some more direct than others. When government steps in appropriately, on behalf of the people, then there is a reasonable expectation that the people should share in the fortunes of the companies in question, whether through taxes, socially responsible behaviour on the part of the company, or otherwise.

II.3 **Employees' desert.** The participants who may be forgotten in the consideration of dividend or dividend-related earnings are the workers. Are they underpaid or otherwise exploited? Workers could become shareholders in the companies they work for, and receive dividends. This solution becomes more problematic when we consider what happens to publicly traded shares, and how their value is determined, but there may be something in this, nevertheless.

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[3] The matter of who managers are responsible to, to which "stakeholders", whether shareholders, workers, the local community, the country, etc., is an issue which various writers do address. My position is that some behaviour is clearly irresponsible and cannot be justified by saying that it is up to individuals and maybe government to decide what, if anything, to do about it, and managers should simply seek to maximize profits.

Some people may be tempted to take a more general perspective, look at the distribution of wealth in society by class, and say that we should be increasingly less concerned about the wealth of the rich capitalist owning class because more and more members of the middle class (which includes many workers) are becoming owners themselves by participating in the financial markets. This is not a satisfactory answer _if_ dividends are being paid from moneys that ought to be going to workers. There is no guarantee that particular underpaid workers will be the ones joining the owning classes (aren't the most underpaid least likely to be the ones?). But even if the exploited could make good their losses by sharing in the exploitation of others, would we want to sanction that?

II.4 **Stock market efficiency in raising capital.** The points about interest, risk and additional contributions may be a good basis on which to argue for entitlements from stock market investments in the primary market, that is, from the purchase of shares from corporations. What happens to the happy coincidence, though, if the stock market is _not_ particularly good at raising capital for publicly-traded companies? Whether or not more or less than 5%, a very small fraction of money changing hands actually goes to the companies whose shares are traded, be that from initial public offerings (IPOs) or from subsequent issues of additional shares.[4] Furthermore, much of _this_ money actually goes to other destinations, such as the pockets of those persons taking their company "public" or their boards of directors or managers (see, e.g., Stewart, pp. 100-2). The rest of the trading is of shares already purchased from the companies.

Is the stock market relatively efficient at raising capital for enterprise? That depends on the alternatives. Clearly alternatives exist because there are private, non-publicly traded corporations; at one time all corporations functioned without the assistance of the stock market, and some countries have more active and others less active stock markets. Capital can come from retained earnings; it can be obtained from loans from banks (and from bond purchasers). Indeed, there are critics who argue that much activity in the stock markets is comparatively unproductive, speak of shuffling papers and "paper entrepreneurship", and fear that other countries' economies less dependent on these markets will race ahead (e.g. Robert Reich, cited by Hardin, p. 69). If we recall the 5% figure for a direct channelling of funds, and the other monies as payment for indirect support of that, then comparisons come to mind. Would we sanction a charitable organization that spent 5 or 10% of the funds it collects on its targeted beneficiaries, the rest on administration, publicity and so on?

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[4] See, e.g., Stewart, pp. 17, 90, 269, 279; Hardin, pp. 152; Olive, p. 83fn.

II.5 **How necessary is the secondary market?** Should we say, then, that most people trading in the stock market are not doing anything useful, and deserve little or nothing for their troubles? One escape from this conclusion would be to argue that the point about the percentage of money traded going to the raising of corporate capital is misleading. Many profits are paper profits, or profits reinvested in the stock market and do not represent dollars removed from the pool of goods for consumption in society. This would be a dubious claim, though, because it would seem reasonable to expect many losses to be of moneys from outside the stock market; many winnings would not be reinvested. Actual evidence, ultimately, would be needed. A more likely escape is to argue that people making secondary market trades really are doing something crucial for the existence of the primary market - like providing liquidity.

Liquidity, that is, the ability to sell - and therefore buy - very quickly rather than wait until some maturity or expiry date, is important because this allows investors to escape from bad buys more or less whenever they wish, without feeling trapped, or to simply cash in when personal financial needs or desires dictate, knowing that others will be able to quickly purchase from them.[5] But does this mean that virtually unlimited liquidity is needed? This is doubtful when we recall what percentage of funds go directly to firms raising capital.

Another function of secondary markets is said to be market efficiency in establishing shares prices. This might seem like an enclosed or circular justification. Secondary market trading works to establish the true worth of shares in the secondary market; that is its efficiency. But if there were no secondary market to speak of, there would be no need for its efficiency, and so the real question is, is the establishment of the "true worth" of shares important outside of the secondary market? For the floating of new issues? (so that dollars go to companies that can best use them?) (We should not overlook the ability of companies to influence the price of their shares by, e.g. expanding or contracting the number of them and therefore the size of dividends - see Stewart, p. 102). The key here, though, is that this efficiency (if it comes) still comes at the cost of inefficiency in raising capital.

One other thing secondary markets are said to do is send messages to companies and the public about when and where to spend or invest.[6] It is difficult to see this as invaluable because there are a number of other factors they can consider like size of inventories, inflation, government policies including interest rate policy, etc., and which ought to be more influential. Still, if the stock market assessment of a stock is based on fundamentals, then this assessment may constitute an important piece of information for managers and the investing public. It could signal the judgment of a large number of attentive folk about the soundness of a company's current operations and future prospects, and therefore its relative attractiveness as a place to invest.

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[5]. "[L]enders will be more willing to acquire primary securities if they know that there is a market where they can dispose of these issues at a later date. The better developed the secondary market, the greater the promotion of the corresponding primary market" (Hunter, p. 6).

It is very possible that businessmen will look at the direction of the stock market, even when there is no intrinsic reason for them to do so (the price of shares possibly having no demonstrable relationship to companies' performance) and base decisions on that. If other businesses do the same, they create a cumulative self-fulfilling prophecy.[7] Although it is open to investigation just how much of a relationship there is, and in which directions the causual arrows should point, there seems little reason to want to see the messages from the stock market to have much weight. This may not be a useful function but rather a reason to oppose the size if not the existence of these markets.

The evidence does not suggest that the stock market, as is, is needed to perform these functions, and if it is, then something seems seriously askew. Is it necessary for it to perform them well, however, to justify its existence, and to say that traders deserve or are entitled to get what they receive?

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[6]. See W. Stewart, pp. 16, 260, 278; H. Hardin, p. 142, 185.

[7] The same could be said about any number of business responses to government policies, to FTAs or taxes or the election of a government. "If the fear of a Labour government or a New Deal depresses enterprise, this need not be the result of a reasonable calculation or of a plot with political intent; - it is the mere consequence of upsetting the delicate balance of spontaneous optimism" (Keynes, p. 162).

II.6 **Justification of (some) secondary market trading.** Consider an admittedly loose analogy. Let's suppose there were a major industry producing a transportation vehicle (the bicycle?) and that the used trading of this vehicle became an even larger industry. Would that mean that someone in a transaction involving a used vehicle would not be entitled to receive what his vehicle is worth? The good in question in the stock market - corporate shares - does not necessarily have any lesser value just because traded. If people pay for them what they are worth, they are entitled to have them (which is not to say, or not yet to say, only then).

We already have an idea what they may be worth: the rate of interest plus capital appreciation as a measure of dividend potential, and possibly a premium for risk and a return for active participation as a hands-on (part)owner. And if we maintain that is what shares are traded for, their inherent value or real worth or some such thing, that is what people receive.

Or at least it is what people would receive if no one engaged in market manipulation in one fashion or another, whether that be spreading of false rumours (e.g. Stewart, pp. 51, 60, 66, 229), making of false or misleading announcements (Stewart, p. 110), trading one's own shares back and forth (you are the buyer of your own shares) in order to move the market (which is called wash trading - Stewart, pp. 79, 111), and the like. (And maybe if brokers did not attempt to get clients to make purchases at inflated values or sell below actual value, to obtain fees or to profit from reselling shares held in their own accounts.)

II.7 **Short-selling.** A particularly intriguing type of stock market transaction is short-selling. It may well involve manipulation; it certainly involves intentionally selling something at an overvalued price; and yet, it is defended by affirmations that it helps to return shares to their true value.

Short-selling is selling shares before you own them in anticipation of being able to buy them at a lower price later, which is like selling neighbour A a box of tomatoes for $10 that neighbour B owns but can part with and promising to give back a box to B later when you hope to be able to buy a replacement box for $5. If you guess wrong, though, and the price of tomatoes goes up in the meantime, e.g. to $15 you lose money.

To make sure they win, short-sellers in the stock market may try to give the shares they are shorting help downwards, quite possibly by spreading false rumours. When such a technique is employed it is difficult to see that the intent or the effect would be to lower an overpriced stock towards its true worth.

When short-selling is done "honestly", though, will the effect be to "correct the market"? The fact of borrowing shares to sell and then selling them increases supply and lowers prices; buying them later to repay the loan increases demand and prices. But whether this will move share prices towards "true values" would depend very much on whether shares were overpriced in the first place, and then undervalued in the second, in terms of their fundamental value, or, simply, instead, in terms of where people will expect them to trade for other reasons. Also, if short-selling is done on a large scale, this kind of trading itself could contribute significantly to the new price, instead of just getting it there more quickly (see Hardin, 132-4).[8] Now, those who do not want the price of a stock to fall may attempt to "squeeze the shorts", that is, take steps to move the price up and make short-sellers buy higher, not lower priced shares when they buy to replace borrowed shares. What fundamental value enhancing actions would they take?

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[8] In mid-November 1993 the New York Stock Exchange recorded a record-high 1.24 billion shares sold short; 79 million shares of 800 companies on the TSE were held short (not a record). Over 3 million shares of Cott Corp. were

If the true worth of the shares were somehow (re)established as the trading price through this process, without outright deception, the process is still objectionable. It involves people selling something (borrowed shares) at prices they, the sellers, think are overvalued. This is not the kind of practice society should wish to condone in the stock market or elswhere - for two main reasons. The first is that some people (those buying shorted shares) are being denied the worth or value of the good that they are exchanging - or at least the intent to deny them this is there. The principle of equivalent exchange or reciprocity is violated. What is wrong with this if both parties have sufficient information (or could have the same relevant information if they were able to and made the effort), disagree on the good's worth and complete the exchange? It is likely that one party thinks he has superior information (but he will not know because the parties trading will not meet). Besides, it is wrong to harm someone even if he asks you to harm him (e.g. kill him or give him a dirty needle). It is wrong to intend to do wrong, even if you do not succeed (e.g., in killing someone or ruining his reputation). It is wrong to harm someone when you should have known your actions would harm him (e.g., selling someone an unsafe vehicle). It is wrong to take advantage of someone's inability to know they are being wronged - whether due to physical blindness or lack of financial acumen. So Sidgwick is wrong when he says that in the case of someone taking advantage of facts known only to

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being shorted (Douglas Goold, "The long, the short and the ugly", Globe & Mail, 29 Nov. 1993, p B4).

himself, such as the presence of a mineral on a piece of land he wishes to buy (p. 288):

> ... "What prevents us from censuring in this and similar cases is, I conceive, a more or less conscious apprehension of the indefinite loss to the wealth of the community that is likely to result from any effective social restrictions on the free pursuit and exercise" of economic knowledge. (p. 446)[9]

The second reason is that legitimizing a buy low, sell high philosophy which aims at buying below value and selling above value is wrong. This philosophy is not likely to stay within the confines of one sort of commercial transaction. It also leads into a more general philosophy of seeking one's own advantage without scruples. This broader philosophy manifests itself in a number of ways: withholding information, lying and deceiving, and supplying defective goods, and not just in (knowingly) intending to buy or sell for other than something is worth (all of which discredit "free markets" in general). The companion behaviours are evident in short selling.

There is a third reason to be concerned about people selling or buying something at other than its (perceived) worth. It has a deleterious effect on people's character, which is contrary to their own good.

Whether for the second or the third reason, it is useful to recall Aristotle's observation that people's behaviour shapes their thinking or outlook - which in turn shapes their future behaviour. We become just by doing just things, unjust by doing unjust ones (Ethics, Book II, ch. 1, p. 29).

The advantage and justification of the impersonal market (in general, not just the capital market) is that it enables us, when it is working well, to make fair and just exchanges with others without favour, and without judging the lives of others to decide if we even want to exchange with them. The justification is not that it enables us to exploit others without us seeing our victims, like pilots dropping bombs in a war. There is reason to question sometimes, not the impersonality of the market, but the anonymity that may be a part of it.[10]

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[9] Sidgwick is quoting his own Principles of Political Economy.

Why would someone usually buy shares, then, if not to profit from underpaying for them; why would he sell them if not to profit from someone else's failure to see they were getting a bad buy? Quite simply, he would look to obtaining future earnings, and sell when needing the cash, or when some other investment appears more inviting, possibly because of a greater rate of return, possibly because of non-financial considerations (such as personal interest). It is possible to sell something at its fundamental value even when abandoning because of its lesser earnings potential. The buyer may find a rate of return satisfactory that you do not, perhaps because of his income tax bracket (or have his own interests etc.), or possibly find the likelihood of a particular rate of return more in conformity with his overall financial objectives, given his situation.

It certainly is possible to argue that "markets operate best where participants take different views about future behaviour - this imparts stability to the market - because there will be a mix of buyers and sellers" (Foley, 228) And having different views about the inherent or fundamental worth of shares would be one basis for taking differents views, and one more than were it not dividing stock market participants. Is it necessary, though, for sufficient liquidity? Or is it the case that the more trading, the more liquidity, the better, without limit, I ask again. We should keep this question in mind.

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[10] Leon Craig writes: "The impetus to be virtuous, which care for one's reputation provides, is seriously stunted by the anonymity and fragmentation inherent in mass society" (p. 79).

II.8 Nonfundamentalist views, outwitting, and speculation.

It will be worthwhile to return to the gambling and speculating aspects of short-selling, and of other types of transactions. But before proceeding it is worth noting that thus far I have been working with a "fundamentalist" description of uncorrupted stock market price behaviour - which maintains that stock prices depend on "fundamental" factors like dividend yields, price/earnings ratios, book value, interest rates and so on as noted earlier. Some participants and anlysts use other criteria to explain stock prices.

"Technical analysts" and "chartists" attempt to ascertain future market and individual stock price levels on the basis of past trends, which follow patterns (such as waves and trend lines) not dependent on "the fundamentals" (see, e.g. Stewart, pp. 134-6; Little & Rhodes, pp. 147-70; Hunter, p. 111). "Random walkers" are persons who maintain that the fortunes of individual stocks cannot be forecast and that you do better to simply lock into the overall performance of the market than attempt to pick winners (see, e.g. Stewart, p. 136; Hunter, p. 112). There are other such theories.

If any of the nonfundamentalist theories are valid without being somehow connected to a fundamental view, it could be the case that a focus on dividends and dividend earning potential (and related capital appreciation) is misplaced. Shares have no significant value in themselves nor do they have value in support of the primary market - how could they? The only meaningful value they would have - in the secondary market - would be changing in value from one time to another. The usefulness of trading them would be next to non-existent. That alone would not mean people should not be able to trade them, but when other concerns are considered, such as the costs of frequent trading, possible problems with gambling and speculation, and the ills of outwitting, the analysis changes.

Of course, nonfundamentalists might maintain that stocks do have fundamental worth of some sort but they do not very often trade at a price that corresponds with it. There might even be a few of them who would say that they wish to use their theories to calculate when they will be properly valued in the stock market. Is it not much, much more likely, though, that the purpose of making calculations using them will be solely to determine ahead of others where a particular share price or the market in general is going to go? And pay someone too low a price for something (which you want because its price is about to rise) and sell something for too much (because its price is about to fall)?

I would certainly think that some fundamentalists would try to do this, but their perspective would seem to preclude anyone from doing this very often. The opportunity would be an aberration. There might even be fundamentalists who would not seek to exploit such an opportunity.

I would not say that short-sellers are more likely to be nonfundamentalists than fundamentalists (although it seems possible), because I do not know. But it would seem that both short-sellers and nonfundamentalists are more likely than fundamentalists to adopt the buy-low, sell high, outwit (cheat?) the others philosophy. Other questions follow. Are nonfundamentalists as well as short-sellers more likely to speculate? Does speculation necessarily involve attempts to outwit? Is speculation objectionable for other reasons? Because it is not concerned with fundamental factors? Because it is a form of gambling? Or is it misunderstood and acceptable? However confusing these questions may seem, it is very important to attempt to evaluate stock market speculation and what people are entitled to receive (or justified doing in order to receive revenues) from activity which is not investing for dividend income, related capital appreciation and the like, that is, not for a share in corporate profits.

There are three separate general kinds of assessment to make. 1. What should we say about entitlements when stock market transactions and prices are based on fundamentals? 2. What are deceptive and manipulative practices and other abuses and why are they unacceptable? 3. What is the nature of stock market speculation? If it is objectionable, why is it? In the pages which follow I will not try to determine how much trading is based on fundamentals and how much is based on anticipating where the crowd will go before it gets there, without consideration of fundamentals. The relative frequency with which stock prices reflect "true worth" or value remains a matter of investigation and debate in financial and academic circles.

II.9 **Investment and speculation.** Often commentators, opponents and defenders of the stock (and other related financial) markets will make references to the exchanges as gambling places and casinos, and employ gambling terminology, referring to "the house" and so on. Whether or not they maintain that the vast majority of transactions are gambling ones, they do make distinctions - between investment and speculation or gambling, and sometimes between speculating and gambling. The success or failure of these distinctions will be crucial in helping to decide which returns are deserved or at least ones persons are entitled to, and whether they should be taxed to alter them, or simply prevented.

I have already been discussing investment. Investments are generally thought to be good things. We tend to think of them as something other or more than simply deferred consumption. In popular language we do not call a placement of funds into a savings account as an "investment". So what more is involved? An investment is a putting away of something, usually for some "considerable" length of time, in the expectation that it will produce some kind of future benefit. We are usually very confident we will receive the benefit. For this reason it is unusual to speak of risky or speculative investments.

Reuven Brenner, in his bid to defend gambling and speculation, stipulates that "speculation" is "a noncustomary act, a deviation from the majority's opinion" (91), a transaction which conventional wisdom has as too risky and not worthwhile but which the actor sees as otherwise.[11] Brenner fails to appreciate that whereas a speculator may go against the crowd, he often goes along with it, counting on the crowd to continue going in the same direction (as even some of Brenner's own examples show). Perhaps if pushed Brenner would want to say that against-the-crowd speculation is good, what he wishes to defend, and that with-the-crowd speculation is not.

Most arguments I have encountered in favour of speculation can be grouped into two categories, non-aggregative and aggregative ones. (They may come together, but need not.) Non-aggregative arguments defend economic speculation as a matter of removing goods from the market when they are relatively unwanted, that is, readily available and at a low cost, and then reselling them later when they are in demand, and selling for a higher price. This involves, in examples Brenner gives (French government bonds at a time of political instability, New York City real estate - p. 95, 99, 238n14) showing confidence in the future economic prospects of a community; it involves, in an example Block and Walker give (pp. 316-17) supplying a good (land and housing) when it is most needed (Block and Walker add that speculators' buying increases prices, their selling contributes to decreasing them); in both types of scenarios private pursuit of profit leads to social or public good. And if speculators guess wrong, well, they are the ones to suffer.

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[11] While I can appreciate that the majority may well be wrong, it need not always be the case that someone calling a decision or transaction speculative is consciously or unconsciously trying to prevent members of lower status from moving up, as Brenner seems to maintain: there may be good reason for calling it that!

Viewed in this way, speculation may well but need not involve buying low and selling high, i.e. below or above value, and yet at the same time helping to establish a more stable, moderate, possibly "true" or reasonable price. To affirm this would require looking at a longer-range time frame, and not just at the market at any one moment.

This sounds plausible, logical and reassuring, but how well does this picture match and how completely does it describe the real world? Are speculators essentially uninvolved in establishing price levels, having only marginal influence? Might not speculators hold goods off the market in order to contribute to higher prices? Also, do speculators contribute to the transfer of goods available to more or most income groups to the category of goods available to higher income earners only?

The aggregative argument strikes me as more plausible, but it is not without difficulties either. According to it, speculators provide a useful service to society, not (only) by guessing right about individually risky ventures, but by assuming, aggregating, and ultimately decreasing risk. This is an argument put forward by Frank Knight. Speculators in the modern industrial society of specialization, specialize in dealing with risks; they group or consolidate risks which together are less risky because the bad outcome of some cases will be cancelled out by the good outcomes of other ones. The same principle can be seen at work in the leasing of equipment to small concerns (p. 258); not only is the leasing company minimizing its risks by leasing to a large number of customers, the customers are avoiding the risk that could result from purchasing all of its own equipment. Both parties gain. In fact, the same thing can be and is said about "financial intermediaries" in general (e.g., Ritter & Silber, p. 67; Hunter 2-5) whether they be granting loans or mortgages or providing other services. (Additional benefits include flexibility, convenience, the ability "to approach a variety of competing lending institutions in an impersonal manner" (Hunter, p. 2) and liquidity.) They reduce risk by aggregating it. (Ritter & Silber, and Hunter do not speak of these intermediaries as speculators.)[12]

However much this principle of grouping may apply to a variety of activities, it hardly seems correct to refer to all those who perform them as speculators. There may well be speculators in different departments of banks, but if we concentrate simply on loans, it is quite conceivable that you will find some banks (at least at some times) which are quite conservative, that is, avoid more risky types of loans, and hardly merit that label as speculators. So the risk someone aggregates and reduces would seem to have to be of some consequence to begin with, before we would call him a speculator. Having said that, something fails in the application of the principle to the stock market. Just whose risk are speculators collecting? A business may attempt to have risks cancel each other out by operating in a number of locations or consumer markets or otherwise diversifying, but it is difficult to see how a business or stockholders have risks better managed or reduced by speculators in their stocks. If speculators reduce risk by taking decisions with more knowledge than those who would have been taking them otherwise, just who are those other decision-makers? The first non-aggregative kind of speculation is more clearly at work in the stock market.

It would seem to be the case that, virtually by definition, speculators will not be interested in contributing to the performance of companies whose shares they hold; they're in it only until the price to get out seems right, which quite likely will be a matter of days or weeks, and not many months or years. Also, they will not be concerned with the "true worth" of stocks but instead with what others will think they are worth, or even with what others will think others will think they are worth. But do only other speculators lose out?, and so even if they gain from having done nothing useful, there is nothing to be concerned about? The other speculators may be institutional investors (such as pension funds, mutual funds, insurance companies, banks... see Hardin 195ff); also, individual speculators may have financial responsibilities towards others. There is more to consider.

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[12] Does this mean that speculation of the second kind will also be speculation of the first kind? It may be, but I can see no reason why it need be. There is more certainly no reason why speculation of the first kind need also be speculation of the second.

It is ironic that joint-stock, publicly traded companies on the one hand reduce risks for individual investors with dispersion of ownership and additionally with limited liability while owners may well on the other hand have little control over what they own (a portion of). The separation of ownership from managerial decision-making (for some shareholders some or all of the time if not for all shareholders all of the time) may well mean that those who buy and sell shares, and shares of many companies, really are not well positioned to evaluate to which companies capital ought to go (to the extent that capital in the stock market actually goes to any). As Keynes says: "the element of real knowledge in the valuation of investments by those who own them or contemplate purchasing them has seriously declined" (153). Moreover:

> It might have been supposed that competition between expert professionals, possessing judgment and knowledge beyond that of the average private investor, would correct the vagaries of the ignorant individual left to himself. It happens, however, that the energies and skill of the professional investor & speculator are mainly occupied otherwise. For most of these persons are, in fact, largely concerned, not with making superior long-term forecasts of the probable yield of an

> investment over its whole life, but with foreseeing changes in the conventional basis of valuation a short time ahead of the general public. They are concerned, not with what an investment is really worth to a man who buys it 'for keeps', but with what the market will value it, under the influence of mass psychology, three months or a year hence. (pp. 154-55)

There may be little interest, then, in paying for what a stock is worth, or in contributing to corporate performance, and consequently not much of either are likely to happen. Does gambling fare even this well?

II.10 **Gambling and speculation**. Brenner (p. 90) says that gambling involves no skills, the outcome is left purely to chance, and this is what separates it from speculation. There may be reason, though, to suggest that in gambling the outcome need not be random, you are simply taking a chance, so to speak, even when it is possible that you could have taken less of a chance. Consider Lisa Newton's definition (p. 413) of gambling as the "placing property at risk in hopes of gaining more, with the proviso that events which are random from the point of view of the placer crucially determine the outcome" - e.g. wagering on "the city's hospital care expenditures" for a particular day (p. 416). Similarly, we could gamble by going to catch a city bus in the evening, not looking at our watch nor knowing even if the bus runs during the evenings - the outcome is knowable in advance but we have not even tried to ascertain relevant information and so we are truly taking a chance, even though we are not participating in a game of chance. In fact, I do not think we even have to say that someone has no knowledge of or even influence on an outcome to say that he is gambling; it (his knowledge or influence) just has to be relatively inconsequential. Consequently, gambling may shade into speculation, although generally I would say that speculation involves having some reasoned basis on which to act, albeit quite uncertain. Gambling involves having very little or no reason to think the outcome will favour you. And so it is indeed possible to speculate in the stock market; it is possible to gamble, going in blind with very little information, even when some relevant information is available.[13] Gambling may be less malicious, without intent to deny someone else the worth of what is theirs; it may, on the other hand, be more irresponsible. There are some other factors to examine in order to be able to determine whether those who gain from gambling deserve or are otherwise entitled to their gains.[14]

The stock market, as said above, is often identified with gambling and discussed using gambling terminology. When the association is condemnatory, why is it? What is wrong with gambling? There are actually quite a number of possible complaints and so we examine the issue very inadequately if we simply stop at a kind of intuitive exclamation that to gamble is to call upon chance and we shouldn't do that. The main ones I have encountered include: 1. gambling is an evasion of responsible decision-making, a fiduciary abdication; it is irrational; 2. it is a win-lose proposition, the winners win only at the expense of the losers; 3. gambling is motivated by greed; it is not only unproductive, it harms people's character; 4. it harms the little guy, the poorer classes; it creates addicts (a point raised particularly with reference to lotteries); and 5. gambling increases inequality. These are not mutually exclusive, nor do they necessarily capture accurately any particular individual's formulation of them; they do, however, collectively cover much of the territory.

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[13]. Brenner is so opposed to making "value judgments" that he suggests it is wrong (if you think it is wrong?) to say that people trading in the stock market are gambling and not using any skills pp. 90-91. It is absurd to suggest that we can never say this correctly about anyone.

[14] We might wish to distinguish gambling from betting, and maintain that people bet on the stock market and do not gamble in it because the outcome is not random (which it is in gambling), but I do not see the distinction as particularly useful for my purposes (cf. J.E. Ross, pp. 371-5).

Before considering the complaints, note some defenses. Gambling with one's own money is one's own business. Gambling is a means of entertainment. Gambling offers hope. I will evaluate these in the course of considering the complaints (or we will be able to see that the need to do so disappears).

The first complaint (see, e.g. L. Newton) is easy to accept, as long as persons discussing it agree that someone has a duty to others. It is generally unwise or wrong (or both) to gamble with what we have to use for the benefit of others for whom we are responsible. From a societal perspective, and with consideration of the stock market, we can say that those who gamble are very unlikely to direct capital where it is most needed. "When the capital development of a country becomes a by-product of the activities of a casino, the job is likely to be ill-done" (Keynes, 159; see also Venn, 82, W.Stewart 269). Furthermore, some may be financially ruined and end up as public charges (Newton 407).

On the other hand, Newton points out, gambling (in general) may be rational for those with poor prospects of improving their situation; so gambling small amounts for possible large prizes may offer poor odds, but nonetheless, increased odds (p. 410). Brenner goes beyond this, suggesting that the frequently offered advice that people only risk money they can afford to lose misses the point: "It is getting these things - the comfortable retirement, the better education for children & postponing a meal, a drink, the buying of a house in hopes of having more & better meals & drinks & a finer house in the future, that gives the incentive to gamble & to speculate" (110). If the needier do not have this outlet, who knows what they may do? Consult an astrologer? Postpone happiness until an afterlife? Bet "on revolutionary ideas"(102, see also p. 95) They might just work for just social policy. Someone may reply that individuals do not have time to wait for social change. Maybe so. But that doesn't mean gambling is necessarily their "best bet", especially as dollar amounts gambled rise. It also doesn't mean social change should never be implemented, including change that gives people better odds than they have in the stock market.

The second idea, that gambling is wrong because the gains of some depend on the losses of others, that they come at the expense of others, is an intriguing one (see e.g. Borna & Lowry, p. 220; Green, p. 247; Stewart, pp. 80-1, also 133). Why would this be wrong, though? It appears acceptable at times. Consider a situation in which a number of people are competing for a job. Doesn't the winner win at the expense of the losers? In a sense, yes, but the winner's win does not depend on the others' losing out, that is, he may well have been selected whether or not they applied. If someone is hired for, say, a public position because a relative of the hirer, then truly that is at the expense of another who ought to have been hired on relevant grounds. The fundamental factor remains the selection criteria. Consider another familiar example. Someone starts up a new business, say, a newspaper, in a small town where ad revenues can only support one, and the original paper goes out of business. Have its owners and employees been wronged (assuming there was no fraud, deception, or other illicit activity)? No, because the new paper's gains are paid for by their customers, who receive something in return; the old paper has failed to deliver something which enough people want. Perhaps it is simplest to say the new paper has done something to deserve its success.

In a game of chance there could not be a winner without losers. The winner also does nothing to deserve to win. He does nothing useful, a recurring observation. And perhaps the concern is that the winner depends on the losers' irrationality, taking risks very unlikely to pay off.

Walter Stewart questions the distinction between gambling and investing (pp. 80-81), between a win-lose activity and a win-win one; (in the context, however, it may make sense to read him as questioning the distinction between gambling and speculating, but I am not certain). Neither are win-win, he says, or at least, investing (speculating?) is win-win only until the market stops rising, that is, until there are no longer new buyers willing to pay a higher price. And so he equates investing in a rising market with pyramid schemes;[15] the winners win only as long as there are new suckers. Just what is wrong with pyramid schemes, though? with needing new customers?[16] Is it the making of money from non-productive acitivity? Is it the fact of having your operations somehow not fully financed, or financed in a sense on risky, not yet located future funding? (and this is how it is this different from ordinary debt financing?) Or is it because there is an absence of "underlying assets" which could be sold off to pay (a reasonable proportion of?) the company's liabilities? Banks seem to be doing something similar, because if people stopped making deposits and/or too many started withdrawing their accounts, they would quickly end up in a crisis, depending as they do on lending other people's money (see Hunter, p. 5 for more on runs on banks). The difference is that we usually think of healthy banks; there is good reason to think that there will be a steady stream of new customers, and therefore we should not speak of suckers with respect to them. Purchasers of stock market shares will not usually be left with worthless assets. They may well be stuck with overpriced goods, however, and so some will win at the expense of others.

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[15] Stewart also mentions what he sees as pyramid selling type features in junk bond-backed takeovers (p. 166), and mutual funds (p. 192) He also discusses "pyramiding" in futures trading (p. 146), but there it has a rather different meaning; it involves reinvesting and multiplying one's own winnings.

[16] Other complaints against pyramind schemes or "multi-level marketing" are not relevant here. (Criticized practices have included requirements that recruits buy more than they can sell - without a right to return product, and exaggeration of earnings potential - these particular ones were addressed by Canada's new competition act in 1993 - see Wendy Cuthbert, "Clamp down on 'multi-level' sales", Financial Post, 13 Feb. 93, p. 15.)

We should not overlook the reality that in the stock market it is not only gamblers and speculators who take advantage of gamblers and speculators; some people who know better what they are doing take advantage of those who know less. In addition to buyers and sellers of stock, there are also the middlemen, the brokers and advisers who profit from fees. In any game of chance, the odds against the participants are increased by the fees taken out of the pool of revenue to be redistributed. These fees are not salary-like, but increase in total everytime someone buys or sells. How many fee-takers are concerned that their clients may be gambling - or speculating? It may be tempting to say "buyer beware". The buyer does have responsibilities, but so does the seller and the intermediary. They should not misrepresent their product, nor profit from withholding important information, for example. But again, it is not only the gambler or speculator who loses if he is acting as an agent for others (such as institutional investors, or his own family). The person on the other side (or in the middle) of the transactions should not concern himself with the first party's total financial picture in an impersonal market; he should at least not knowingly take advantage of him in a particular transaction out of consideration for other affected persons if not the party to the transaction himself.

The third complaint against gambling (and speculating) focuses on motivation and character: tolerating or encouraging gambling is tolerating or promoting greed, the idea that it is o.k. to get something for nothing, for having done nothing useful. Gambling involves transferring wealth "from productive to unproductive purposes" (Venn, 382n), meaning possibly, from what would have been productive purposes had losers not gambled to the unproductive purposes of winners, but also that gambling itself may use up time and energy and that is unproductive. The concern here may only be with social consequences; it may be with character as well, however.

Concern with greed or any other motivation can be problematic because the same action performed by different persons (indeed the same one at different times) can be motivated by different motivations. You could restrict or prohibit a particular activity that is generally accompanied by a particular motivation, e.g. greed, but you would also be inhibiting actions resulting from other motivations. Perhaps that is an acceptable price; any such action needs to be carefully considered. Is this whole area of concern not paternalistic if not also "moralistic", though, and an infringement upon individual rights? That concern is less important when we speak about harm to others; it may also be the case that people will agree that it is better for them not to be tempted by what they do not want to do, or start doing. So the wise legislator may at times refrain from banning some kinds of action, and simply make them more difficult to do, or regulate them in some fashion, and so limit and yet allow individual choice.

But is greed bad? Greed is good, Ivan Boesky said (Olive, p. 78). And he, of course, was not the first to say this. But greed may mean different things. If we discuss it with reference to an acquisitive drive which tells us to ignore conventional morality, law, natural justice, whatever happens to get in the way, it will have very few defenders. If we mean a desire simply to acquire more and more, using legitimate means, then it will have many more defenders. But if we take it to include a grasping desire for gain at the expense of others, and gain without offering something in return, then it does become less benign again. Getting something for nothing, e.g. gifts, is not always undesirable (although, we may in effect owe something in exchange for gifts); habitual reliance upon it is another matter. Man is indeed an habitual creature, a being that depends much on routine and repetition of actions without conscious awareness of them.

We might speak of non-greedy gamblers and speculators. The greedy ones are those who will regularly risk gains for greater gains (and hang onto losing positions as they fall and fall, hoping for reversals). This does not sound right, though. The "prudent" gambler is still looking for chance winnings (and the responsible investor may well hold onto a declining stock if he has reason to have confidence in it returning to its "true worth"). So there may well be good reason to be concerned about greed of gamblers - moral considerations will be more or less relevant depending on what we are describing, however.

The fourth criticism is that gambling can be addictive, and harms especially the poor, because they gamble most and can least afford to. I have doubts that stock market gambling is addictive, because of the complexity of the markets and the amount of effort required to participate in them. It would also probably be safe to say that very few if any lower income persons enter them. More interesting, then, is the effect on the ensuing distribution of income of those who do participate, and that takes us to the fifth and final complaint.

Gambling exacerbates inequality. Does it? I see two ways in which it may. First, those with smaller income or wealth will tend to lose to those with more money (see e.g., Venn, pp. 384-6 who discusses a more complicated picture), essentially, I imagine, because poorer persons cannot sustain large losses and continue in the game. Second, chance redistributions may themselves create or expand inequalities.

If less wealthy persons take more chances, the mere fact of "leakage" to "the house" could do this, whether the take for the house goes to securities firms or lottery funded middle-class-oriented projects. But this is not the only way. If people of equal wealth place equal bets, with no leakage, the winners will obviously have more than the losers. John Venn says:

> Suppose two pair of gamblers, each pair consisting of men possessing £50 and £30 respectively. Now if we suppose the richer man to win [a £10 bet] in one case & the poorer in the other these two results will be a fair representation of the average; for there are only two alternatives and these will be equally frequent in the long run. It is obvious that we have had two fortunes of £50 and two of £30 converted into one of £20, two of £40, and one of £60. And this is clearly an increase of inequality. (p. 391n)

Or at least of inequality between the extremes. But apart from ability to sustain losses, is it not possible they will go another round - if that does not move the distribution closer together again, or at least a number of tries will, if averages prevail and if no intervening variables intercede. That is a large "if", however. Again, the person may drop out. Venn notes that some rich persons gamble away their fortunes, and poorer persons win a large portion of them (p. 392). We also need to be mindful of practices other than gambling which increase inequality including competition, technology, credit, corporate expansion and the like (pp. 392-3) - do we wish to condemn them? he asks. Venn is too quick to suggest we should not, or at least too quick to suggest that banning or approving of them are our only options. We can opt to try to produce greater or lesser inequality.

II.11 **Insurance and gambling**. There is an important challenge to opposition to (some) gambling that needs to be considered yet. If gambling is wrong, is not insurance also wrong because it is a form of gambling? People who take out insurance policies are gambling that they will gain more than they will lose in premiums; those who win only win because others lose. Insurance is a win-lose proposition. This is an important challenge, not only because of the questions it raises about opposition to gambling, but also because of a number of practices related to the stock market can be viewed as kinds of insurance.

The question of whether insurance is a form of gambling (as, e.g. Ashton says it is - see Brenner, p. 101) has evidently caused many persons to make efforts to distinguish between them.[17] Borna and Lowry, for example, say that gambling increases the level of risk, it involves "artificial" or additional or unnecessary risk, whereas insurance reduces or stabilizes risk (p. 221). Venn speaks of the objective of insurance being to diminish "risk and loss as much as possible" (p. 380). Brenner similarly says that when people gamble they try "to restore or to increase their wealth" whereas when they take out insurance they try "to protect what they have already achieved or customarily can expect" (101) But he questions whether insurance involves unavoidable risk and gambling artificial risk (discussing Benson Perkins' articulation of that distinction, Brenner, p. 240n25). Is driving a car necessary, he asks; is gambling unnecessary? Besides, those identified as losers actually gain peace of mind (and in gambling, hope).

Peace of mind is important, but that does not justify insurance at any cost whatsoever. Given that some activities are considered acceptable or good before gambling (on insurance) insuring them can be a good thing - and maybe not having insurance would be a kind of gambling, once we calculate probabilities and costs.[18] Consider also that people may be able to afford premiums and not the losses they may experience without insurance (Huff & Marinacci, p. 18) - because they would not save for rainy days or quickly enough otherwise, I would think.

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[17] The efforts have not only arisen in attempts to resolve philosophical or ethical disagreements but also to justify insurance company practices. For an historical account, see Brenner, 103-4.

We should also want to look at who "wins" in payouts of insurance moneys, namely people who suffer some loss; "winners" are not selected haphazardly as in games of chance (see Venn, p. 379). That these people win can be seen as a gain to society because these "winners" could be burdens on society otherwise, or at least to particular persons (see Ross, p. 382). Of course, there are those who maintain that we should return to the days when "family, kin, and community charity were the main sources of insurance" (Brenner, p. 106), and there were no government run, mandatory social insurance programs, but we need to remember that society has changed, too. Family ties are not as close - or suffocating. Women are free to pursue careers.

Some people have the wrong idea about some insurance plans, e.g. unemployment insurance, maintaining that they are entitled to what they paid into them, failing to see them as insurance and not savings plans. They should also see that they are not "losers" when others receive benefits, because recipients are persons who we should want to receive them. Unemployment insurance also enables workers to refrain from bidding down wages.[19]

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[18] Allowing thieves to insure against chance of apprehension by police by taking out a policy with an insurance company would not be a good thing. Maybe break-up or divorce insurance for women, especially with children, would be a bad idea because of what it might do to marriages; then again, it could be a good idea given the poverty many single mothers live in - see "Insurance - for better or worse", Vancouver Sun 27 Oct. 1979, p. B7. What about malpractice insurance, then?

[19] Dimitri Panopalis brought this point to my attention.

In short, insurance is very different from gambling in general because the persons who win are the ones we should want to benefit, after experiencing losses in activities we had independently or anteriorly considered acceptable. (Insurance may also be different in that "the house" invests the stakes and can add gains to the pool for payments - see Venn, p. 382n.)

Some insurance can also be seen as a kind of equalization arrangement, in which contributors are kept from falling behind through the payments of others, and desert and responsibility are removed from the picture. Standardized (in contrast with individualized) pay rates could be an example (Venn, p. 375); health insurance payments another. (The picture is complicated, though, by consideration of costs and difficulties in making evaluations otherwise, disagreements about who is responsible for what, e.g. their ill health, and just when such equalization is appropriate). I do not see this point as particularly applicable to stock markets, though, unless someone were to think up something like investors' insurance.

II.12 **Stock market insurance through diversification**. There are several ways in which persons could try to insure themselves in regular or ordinary stock market trading (by this I mean trading in stocks alone, not using other financial market "commodities", and not involving takeovers) - which can be placed loosely under the heading of diversification. The first is adopting an investment strategy of "hedging one's bets". Ritter and Silber, for example (pp. 459-61) discuss investing in one company which does best when the economy in general does well, and investing in another which does best when there is a downturn in the business cycle (e.g., Barbiturates Inc.). Another choice would be to invest in a stock exchange index fund, offered either by an exchange itself (apparently very expensive, starting, e.g. at $5 million, Stewart, p. 7) or mutual fund companies. Index funds consist of shares in a large number of stocks whose levels go into the determination of the exchange index itself (and are not to be confused with index futures, to be mentioned later).[20] You are virtually assured that you will do as well (poorly) as the stock market as a whole. Alternatively, you may wish to diversify by buying into any of an increasing number of other mutual funds (only some of which are "equity funds", i.e. made up primarily of corporate shares).[21] Is this kind of diversification simply allowing people to gamble on a larger number of stocks, or on the movement of the entire stock market (as Stewart says, p. 7), or does it constitute a kind of responsible insurance? - as might be indicated by the interest of institutional investors such as pension funds in index funds (Stewart, p. 131 says 40% of US institutional stock market investment is in index funds; information Mayer, p. 263, gives would suggest a substantially lower percentage). I will not go so far as to say that such investing is not gambling; I do find it difficult to say that it does not represent a reduction in exposure to risk for the person or institution that does not take time or have the ability to forecast the fates of individual stocks. There still may be considerable risk, and a real gamble involved, though, depending on the selection of stocks and the manager managing them. To the extent that the investor is gambling, and the strategy succeeds (the losses are balanced by gains, perhaps by investing in a variety of mutual funds), there is a real question of the purpose - and justifiability - of the exercise, especially when other factors relevant for economic justice are considered, which I will note momentarily. Is it responsible financial decision-making to invest in risk-reduced and profit-limiting strategies when other low risk alternatives which pay more exist? Martin Mayer raises another serious problem with index funds: they constitute an abdication on the part of investors from making well-researched, responsible judgments about where to invest (pp. 262-3).[22]

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[20] An exchange index is designed to indicate an overall trend of prices of shares traded in comparison with a base year. A limited number of shares (e.g., 300) is selected and these are weighted according to their market value (Hunter, pp. 106-7).

[21] James Ferrabee, "Taking serious stock in the companies", Edmonton Journal, 12 June 1995, p. B4, reported that $130 billion dollars were invested in mutual funds in Canada in 1994, a doubling in two years.

Now, is the investor doing enough to earn his high earnings when he does receive them, especially in light of the partial objective which may well be to invest without having to know anything about the companies whose stocks he holds, and their performance? Conversely, do those who sell and manage the funds earn all of their fees - purchase fees (front end loads), ongoing annual service fees (trailer fees) and selling or exit (back end load) fees? In other words, do they do enough useful work to merit the entire amount they receive? The matter of conflict of interest is often raised: do financial advisors receiving such fees give their clients good advice, when advising them to sell means advising them to contribute less to their income by paying them less or no fees? Of course, there are many other ethical questions about the intermediaries' role, including the visibility of fees they charge.[23]

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[22] Perhaps it should also be of concern that index funds "are now so huge that they don't merely ape the market, they influence it. When a new stock is added to an index, its price will jump, whether deservedly or not..." (Stewart, p. 131).

[23] Conflict of interest is also potentially problematic for investors who do take an active interest in the companies whose shares they hold. If these companies compete with one another, and competition is productive, can they offer the

Finally here, it is worth repeating my concern about taking advantage of others. Does a diversification strategy include underpaying or dumping overpriced goods? (cf. Mayer, 263 and the NY Times quotation which appears there).

I have argued so far that investors may be entitled to a return on shares held, whether the initial purchasers or not, using interest rates as a base. I have also argued that gambling and (to a somewhat lesser degree) speculation are unwise and harmful in a number of ways, including contributing to the trading of shares at other than their fundamental value. They are, in addition, not generally useful activities; inasmuch as they are conducted within social institutions government can be legitimately concerned that moneys and resources of various kinds are not being employed in more productive activities - although I am not certain that this is a moral matter - other than in favouring some people's interests over others, and exacerbating inequality. Insuring and diversifying may involve taking risks but are quite different from ordinary gambling - they are not without potential problems, though.

III. Non-ordinary Stock Market Trading and Futures Markets.

Before presenting some proposals for increasing justice in the stock market and conclusions, I wish to present some reflections and ask some questions about kinds of non-ordinary trading which are attracting ever more dollars. These include corporate takeovers, and moves in the option, futures and other derivative markets.

III.1 Corporate takeovers. There are many ethical questions about corporate takeovers which involve measures with direct

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best advice? This is a question more for those with large holdings, and especially members of boards of directors, and those who have more of a say than simply giving advice, but an important question nonetheless.

and indirect significance for economic justice, i.e. who ought to receive what share of the wealth created and/or (re)distributed. I will discuss two of these here.

Why should there be one price of a stock for regular trading, and another when a takeover is made? Why, that is, should stock-holders receive more for their shares when someone executes a takeover? The simple answer is that a company which is reorganized (quite likely meaning "broken up") can be more profitable, at least in the short term, to its new owners than it would be continuing in its existing form. And new owners, not necessarily but very possibly looking only to the short term, may well be more interested in and willing to reorganize the company than previous owners or management. So if new owners-to-be bid up the price, is it just that shareholders gain this windfall - and is it just that the new owners receive their gains? This is not an easy question, especially considering the effects on communities where plants may be closed and on workers who may be let go in "downsizings" when factors of competitiveness and profitability do not dictate their fate, that is, considering the net (possibly negative) usefulness of the moves. If there are gains and they are deserved, though, because of the underlying value of the assets and their potential for future earnings, we also need to look at who is responsible for their value and consider workers and government and their contributions as well and not just what shareholders and takeover parties have the power to claim for themselves. Taxation after the fact may be most appropriate but that may not suffice to give workers and others their due. Taxation policy, in any event, should not pay for and promote injustice. (See Hardin, p. 93, on junk bonds, taxation and takeovers.)

III.1a **Insider trading.** The question of insider trading is also intriguing indeed in the context of takeovers (although it does not arise only here). Although some valid questions can be raised about the boundaries of classifications of insiders (see J.J. Phelan, Jr., then chairman and CEO of the NY Stock Exchange, pp. 29-31; see also Olive, pp. 88-9), and the point made that financial advisors ought to be aware of and pass on the scuttlebutt of movers and shakers to their clients, and other defenses offered (see, e.g. Werhane, pp. 102-4; McGee and Block) I think it is difficult to dispute that in principle inside trading is illegitimate, and not just because it may shake "investor confidence" (see de George p. 202). Why? After all, someone may say, as de George notes, that an inside trader may pay $50 a share intending to profit from a pending takeover announcement which will drive up prices, whereas someone else buys @50 without having inside information and so wanting the stock for other reasons. Why is one stock buyer doing something wrong and the other not if they are doing the same thing, i.e. buying at the same price? The answer is that they are not doing the same thing. The inside trader is unfairly and unjustly taking advantage of the seller who would very likely not sell @50 if he knew what this buyer does. The inside trader is acting on the basis of information which leads him to conclude that he is able to buy for below the worth of the stock. He is buying (too) low in order to sell high. Earlier comments made in the context of short selling are relevant here.

III.2 **The two-sidedness of various products.** The remaining types of transactions which I wish to deal with raise challenging questions because they all seem two-sided; seen from one perspective they provide for hedging or "insurance", and risk reduction, a lessening of exposure to both natural chance and the actions of other actors; seen from another perspective they involve risk taking, speculation, and betting if not blind dependence on chance or pure gambling if not balanced or aggregated. Should we say that both kinds of activities are functional, and therefore acceptable? It will be important to note that speculation can be unwise, e.g. unhedged or unaggregated (e.g. Leeson) and that even hedging can be undesireable, and both have implications for issues of responsibility, justice and equality. I am too new to consideration of the following types of transaction to present strong defense of a conclusive position; I offer questions and concerns to be addressed.

III.3 **Options**. Perhaps the simplest of the following to discuss are options on shares in the stock market. Call options allow someone to buy shares at a specified price. So if someone sells me one (which would be for a fee or "premium") to buy Nowthen shares at $15 I have an option to buy a certain number of Nowthen at that price within a given time even if the price goes higher. The person selling the option, while gaining the premium (which he does whether or not the option is exercised) would have to sell the shares at the call of the option buyer, and that would very possibly be at a loss. If he already owned enough shares without buying more his losses would be limited (to the difference between what he paid and what he sells them for, plus his loss from being unable to sell them at market price, minus the premium); if he did not own any (if he were offering a "naked option") he would have to buy them at whatever cost they were selling.

Put options allow someone to sell shares at a specified price for a premium. So if you sell me a put and the value of my shares in Nowthen declines below the "strike" or "exercise" price, I can sell you the specified number of shares at that price named in the option.

Buyers of put options obtain a kind of insurance against loss of the value of their shares. Buyers of call options would seem to be making a bet. Sometimes people are given call options, such as members of management as part of their pay packages, and in those cases existing shareholders pay for them in effect because the value of the shares is watered down (Hardin, p. 30). Sellers of options hope to gain the value of premiums from unused options, obviously, and may not consider selling of shares they own or buying new ones to be a complete loss as they may have wished to do one or the other. Nonetheless, they are taking risks, and the more uninformed they are, and the less they aggregate risks the more they would be gambling. To the extent they do not gamble the more they may seem to deserve the gains they make. How useful is writing options, though, in the larger picture? It is difficult to see what valuable service someone provides by offering call options, unless there were some pre-existing need for significant numbers of people to buy particular shares, and I cannot imagine what that could be (except possibly tax reduction - see Hunter 136 - something of questionable social benefit). Even in the case of puts, what good comes from insuring people against loss in the value of a stock, especially if the stock were overpriced?

We should consider, furthermore, that even when cases can be made that a valuable service is provided by an options writer, who is not simply making bets with their purchasers, that the price may be excessive for the service provided (whether paid by the writer or option buyer in one case or the other). Also note that formal options markets have been established and so there is institutionalized secondary trading of options in recent decades. This trading of options may add liquidity, i.e. facilitate buying and selling of them, and provide against default (Hunter, 131, 136), and even "efficiently" price them at their inherent worth. Again, is the price of transaction fees and losses to traders (and those to whom they are responsible) reasonable or defensible?

There are two possible further pluses to mention. The purchase of put options can cause someone to hold onto shares that he might otherwise have sold in a falling market when it began to fall; having this "insurance" enables him to be less quick to follow and contribute to a further decline in price. This may be a good thing for him and others, (again depending on whether the stock was overpriced to begin with). The other possible plus is related. Options enable their buyers to buy and sell at other than the market price. This might be seen as unfair or unjust, but it need not be because there is nothing sacred in market prices, as I have argued a number of times. They may be useful indicators of aspects of people's behaviour, including their assessments of the importance of the their needs and the value of their labour, but they can be mistaken. Still, when options are exercised, how often is someone (or some institution) taking advantage of someone else, including in the trading of options themselves?

III.4 **Futures markets.** A number of concerns about options are similar to those that arise in the context of futures trading, which introduces additional elements to this discussion.

First, note quickly a distinction between a forward and a futures market. In a forward market transaction a particular buyer agrees to buy from a particular seller some good at a fixed price to be delivered in the non-immediate future. In a futures market "contracts to buy and sell commodities at various future dates" (Foley, p. 147, emphasis in original) are traded. The "quantity, quality, delivery date, & delivery point are all standardized, leaving only the price to be established by the contracting parties" (Atkin, p2). A clearing house or exchange acts as an intermediary, coordinating anonymous transactions and taking responsibility for fulfilment of the contractual obligations.

Futures trading in commodities (and more recently in financial instruments) has come under attack. In defense, interested parties and many economists argue that if people really knew the good that futures markets do they would change their opinion. These markets enable producers to hedge or insure against future declines in commodity prices; they enable processors and manufacturers to hedge or insure against future increases in input costs; they stabilize prices; they possibly provide useful information for use outside the market, contributing to fairness in spot market prices, which cannot be set so freely by a few dominant companies because of the existence of this information. (Spot markets are regular commercial markets in which delivery takes place at or shortly after the time of sale.)

The question here is not only whether or how well futures markets deliver such societal goods, but also how comparatively well they do if they do, at what cost and how justly - that is, with what degree of coincidence between contributions made and financial gains accumulated. The answers are not necessarily the same for different kinds of "commodities" nor are they obvious, to me, at least. The issues are, by contrast, clearly fascinating in the context of desert, chance and economic justice.

III.4a **Futures markets, speculation and hedging.** The standard explanation of the existence of such institutions begins with the need of producers of goods with volatile prices to have some kind of assurance that they will receive an adequate return for their labours, and with the need of processors or manufacturers to know what their input costs will be in advance, as they may need to establish their prices in advance so they can, for example, include them in catalogues to be printed soon for later distribution. The former wishes to hedge against prices that are too low; the latter wishes to hedge against excessive costs. So if a farmer hedges a crop, he may promise to deliver it at $10 a unit to meet expenses and obtain a satisfactory profit, and guard against a lower price, accepting the possibility that the spot market price at the time of harvest may in fact be higher. (If he were "sufficiently" confident it would be higher, he would not hedge.) And a processor may contract (promise) to take delivery of something at $10 a unit to guard against a higher price, accepting the possibility of a lower spot price. Futures markets provide the opportunity for and services of additional parties willing to be on the other end of these promises, i.e. to buy from the producer or sell to the processor, because parties wishing to hedge may very well be unable to match up with someone else wishing to hedge in the opposite direction (buy or sell) at the time they make their decision to hedge. This is where the speculators come in.

A speculator assumes risks in return for a chance at a profit. So if he promises to take delivery of the hedged portion of the farmer's crop at $10 a unit (if he "buys a contract" and "goes long") then he hopes to be able to sell it at a higher price, and then we might call that profit which is the farmer's foregone profit the cost of the farmer's insurance. And if he (the speculator) promises to sell something to the processor ("sells a contract" and "goes short" or takes a "short position") the speculator hopes to buy it a lower price; we can call the processor's payment over the marketprice at the time of delivery, the speculator's profit and the processor's cost of insurance. If the speculator guesses poorly and has to pay the farmer above market price when the contract matures, or sells/delivers to the processor at below market, the hedger makes a clear gain (minus transaction costs) and the speculator loses.

Is the speculator deserving of what he receives? We might say that he is for assuming risks and providing insurance because he is, after all, assuming already existing risks that accompany the socially acceptable activities of farming and processing. (We could also note that the guarantee of future earnings of hedgers can make it much easier for them to obtain loans - see Atkin, p. 7) We could question whether ability to predict future prices is something that should be a matter of specialization and a source of earnings, but it does seem that forecasting prices can be more a matter of skill and knowledge, and less a matter of betting, than predicting stock prices (leaving aside for the moment the question of stock index futures). There are objective grounds for estimating prices in the non-financial markets world of production and consumption of commodities that directly affect people's lives, and where the risks are "real".

The point about the possible irresponsibility of not insuring something, like one's house, is applicable here. Leaving oneself open to "too much" risk as a producer or input use could be irresponsible, a gamble. Indeed, we may "hedge" - or at least lock in our future costs as a user of something - without being aware that we are, and therefore might not do it very well. If we buy a large inventory of an input to use over the next six months, we could be doing just that, and perhaps unwisely if we had failed to consider inflation, interest costs, storage costs and likely price changes (Atkin, p.2). Consequently, having price forecasting speculators ready to make a futures trade with us just may be quite a good thing.

As a further example, reflect on the wisdom of hedging one's mortgage on a home. Not knowing what mortgage rates may do, but fearing with good reason that they are going up, you may decide to sell bond futures because when interest rates go up bond prices come down (in order to keep pace with the higher rates) and that will earn you a profit to assist in counteracting your increased costs (this is, of course, assuming that you do not have a fixed-rate mortgage immune to a hike - see Mayer, p. xxxi). Naturally, if you were wrong about mortgage rates and they declined you would lose on your futures and gain in mortgage payments; you would be behind where you would be if you had not entered the bond futures market, but you may accept that as the cost of your insurance against the unmanageable increased payments you had feared.

Even if futures market speculators may have considerable information on which to base their predictions, they clearly do deal with very unpredictable factors such as changes in laws and governments, the weather and natural disasters. For them to rely on their own individual predictions may be very risky and approximate gambling. They can reduce their risk, though (and consequent opportunity at lucky windfalls), by dealing in larger numbers of trades and in commodities whose fortunes are likely to vary inversely. They may adopt other strategies, too, which limit possible sizes of profits but decrease overall losses.

Yet this picture is incomplete; we need to look at more of it. The observation is frequently made that the futures market is a zero-sum game (e.g. Hardin, p. 166; Lowenstein cited by Stewart, p. 133). The winnings equal the losings (if we overlook the matter of transaction costs). The winners only win because there are losers; the winners win "at the expense of" the losers. Now we might be able to say that futures markets are win-win because those who lose money win insurance. But is there a sense in which we can say speculators "take advantage of" or exploit hedgers? (and speculators?) Can we safely say that trading in futures markets depends on "differences of opinion" about the future and therefore that speculators buy low (lower than they think something is worth), and sell high (higher than they think something is worth)? Perhaps this is so, as in the stock market, if the only use of the good is income from price alteration and not use either in consumption or further production. In other words, usually someone buying something in non-financial markets either will want to use it to satisfy needs at some time or add value to it, using it in production, and profiting from that; that is not the case for speculators. Yet perhaps a hedger who sells to or buys a contract from a speculator could agree with him on the probability of a general range of a change in a price and both would still think it worthwhile to proceed, neither thinking there is under or overvaluation. For example, it may be that "a 10%

probability... of prices going up is a good enough chance for a speculator to risk money (and go long of soybeans) and, at the same time, a remote enough possibility to encourage a hedger to go short" (Atkin, p. 15).

It is important not to overlook the fact that much trading is not between speculators and hedgers but speculator and speculator and then reference to insurance is strained. The contest would seem to be to decide who can outwit whom. But need it be? Can we distinguish between "informed" speculators ("investors"?) and "noise" speculators? Surely there are many speculators who do take advantaged of the uninformed, given the statistics revealing what percentage of players lose (90%) and drop out (which may say something about inequality in gambling, too) (Huff & Marinacci, p. 223). These persons may deserve to lose in a way, but does that mean the winners are entitled to win? Their winnings cannot be considered the losers' cost of insurance.

Futures markets do put a cap or ceiling on the size of change that can take place in prices from day to day; that should at least limit somewhat the amount of speculation of speculation (which may be inherently exploitative in intent) rather than of actual commodity prices.

III.4b **Futures markets and stabilization.** Assessment of futures markets should include discussion of the matter of stabilization. Do they stabilize or destabilize? Critics have long argued speculators destabilize spot prices; defenders counter that they stabilize prices - but which ones? Futures markets prices or spot market prices or both? The argument that they stabilize futures prices affirms, as earlier noted, that they (speculators) even out the highs and lows, buying at low prices and selling at high ones, thus adding to demand when demand is low and adding to supply when they are high, and helping the markets to keep prices in a narrower range. There may be an assumption of volatility in this; otherwise, why not let low or high prices alone - they may be good ones to have. Moreover, speculators may look at a high price and anticipate it going even higher and so may drive it up, or, if they are of a like mind, drive it down.

I am not sure what benefit there is from a stabilized (or stabilized range of) price unless it relates to the real worth of goods or services and/or the prices they actually change hands for. That takes us into very different territory - the relationship of futures to spot market prices.

One of the simplest ways in which futures market trading can have an impact on the spot market may be to alter the timing of hedgers to putting something on the regular market or to purchase it there. It may be tempting to say that apart from such an influence, there (generally) ought to be no effect because the futures market is essentially about making guesses or forecasts of future spot market prices and shifting money in one direction or another in response to what they turn out to be, and the two markets are really quite separate when you stop to think about it. We could add a qualification that in futures markets prices do converge with spot market prices the nearer trading in a contract comes to the delivery date, but this does not change the point. If it did, it might be reasonable to suppose that it is the spot market price which is the one that does most or all of the influencing. Further examination of what happens may cause us to alter such a conclusion considerably.

Someone warehousing a good may decide it will or will not be worthwhile to put it on the market at a particular time, considering the direction of futures prices and factors like storage costs (see Atkin, p. 13). The person would not need to be in the futures market himself. Similarly, producers, processors, investors and the like not in the futures market may in fact have such confidence in the reliability of futures market forecasts and the utilization of information going into them that they will base spot market decisions on futures prices: "a Japanese company buying sugar from Thailand will typically pay a price which is tied to the New York futures price" (Atkin p. 19, see also pp. 12, 16; Kolb, pp. 54, 56). But cash (spot) and futures prices can be more intimately connected through the actions of arbitrageurs. "If futures prices are too high" they "will sell the futures, buy the cash commodity, and store and deliver it against their futures contract. If futures prices are too low, arbitrageurs buy the nearby futures, take delivery, and sell the commodity in the cash market" (Atkin, 14)[24] Their actions will tend to close the difference in price, and so they will not be able to carry out their strategy indefinitely. (Perhaps the futures price would not change much if speculators were confident in their predictions, but the gap could still narrow because of the effect on spot prices - I say "could" because a change in spot prices could also be accompanied by a change in futures prices maintaining or increasing the differences, depending on the time frame.) Thus futures markets can influence cash prices upwards or downwards. A major question arises: is it desirable that this speculative estimation of future prices have the influence it does have on what both futures markets and non-futures market players receive? Is this not a deviation from what the "normal" forces of supply and demand would (and should) determine?

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[24] An arbitrageur is simply someone who takes advantage of the differences in price between two commodities or one commodity in two markets. If I were to see apples selling for $1.50 a kilogram in a southside market, and $2 in a northside one, and I were to buy apples from the southside to sell in the northside and still be able to make a profit after my expenses (e.g. transportation), I would be arbitraging.

Keep in mind the special uses of the words "buy" and "sell" in futures market terminology. Also note that over 90? 95%? of futures market transactions do not conclude in making or taking delivery of the goods contracted for. Buyers sell and sellers buy to close out their positions; buy and sell contracts (in effect, promises) offset or cancel each other out. Even hedgers usually offset their positions because they do not wish to buy from or deliver to the commodity exchange warehouses, preferring, e.g. to deal somewhere more convenient for them.

These considerations about effect on price also bring into question the claims that futures markets pricing is fair and democratic, and takes price determination out of the hands of a few oligopolic corporations (e.g. Huff & Marinacci, p. 39; Atkin, p. 11). Even if there were evidence to indicate that the big guys do not prevail over the little guys, evidence I would like to see, I find it questionable whether "fair" prices could be determined by a process involving hedgers and speculators and not, say, consumers, or even the population at large through some mechanism.

III.4c **How good is bad hedging; how good is good hedging?** Even if we were to approve of the effects of the speculative aspect of futures markets, we should consider the desirability of the protection given to hedgers, that is, unsuccessful hedging and "successful" hedging, both of which can have implications for the fairness of pricing, too.

Hedging can go wrong. Very wrong. There seems to be three main ways that it can. The different elements of a hedge may not be inversely related, even though the hedger thinks that they are. For example, a farmer may grow two crops because they attract different kinds of pests which show up in different kinds of conditions and have both crops afflicted anyway, by some unexpected pest. Or someone may invest in condominiums for sale and rental housing and see the market for both decline. (I will discuss an example with more direct application to futures markets shortly.) Secondly, someone may hedge against increased costs or decreased prices and discover that costs or prices not only go in the opposite direction, but a very significant distance. A farmer who locks himself into receiving $10 a unit and sees spot prices increase to $20 by harvest may well survive, but someone using sugar or cocoa who sees the spot price of his hedged input fall by half may be severely damaged by resulting noncompetitiveness. (A German metals and mining company reportedly lost $1.3 billion in 1993 on oil futures when oil prices collapsed - John Greenwald, "The Secret Money Machine", Time, 11 April 1994, p22). Thirdly, hedgers may hedge too great a number of contracts and suffer because of that: a processor may hedge for more ingredients than he can use, see the price fall, and have to sell at a loss; or a farmer may hedge for more than he can deliver, see the price rise dramatically (such as in a drought - see, e.g. Kolb, p. 81) and have to buy additional goods (contracts) at the high price to meet his obligations - in addition to having limited his earnings on what he grew.

We should not be too quick to respond that such scenarios are exceptions, it is successful hedging that is beneficial to society. Is it ever the case that hedgers can afford to be less efficient than non-hedging competitors because they are insured against lower earnings or higher costs? If I am not mistaken, that is one of the criticisms of government insurance of producers. Why would it not apply to (commodity) futures markets?

Someone may respond that government insurance programs may be accompanied by other undesireable features, such as supply management (i.e. quotas and limits). Perhaps insurance (and price stability) is desirable through one or the other (futures markets or government); the question is which does a better job at a better price.[25] If so, when evaluating futures markets we should look at all of the money that changes hands, including not only hedgers' and speculators' payments to those who win (including speculators), and brokers' fees, but also the dollars that go to related cottage industries of consultants, gurus and the like. And take into account the moneys that people receive for counter-productive and losing transactions, such as bad hedging and bad speculating. I am not certain that futures markets (as constituted or reformed) should be considered the winner. It is advisable to compare them with forward markets (as constituted or reformed), with government programs (as constituted or reformed), and perhaps even farmer crop selection or other diversification or hedging strategies producers and input users could adopt.

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[25] Brenner gives his answer on pp 110-111 of Gambling and Speculation.

I do not know enough about government programs to attempt to say much about all of their advantages and disadvantages, practically or theoretically. However, one aspect of the operations of the Canadian Wheat Board strikes me as particularly noteworthy, and that is the practice of making initial payments to farmers and then supplementing them if the sales of the crops bring in additional revenues (see Stewart, p. 149). This would seem to offer the model of a partial insurance scheme which could limit the costs of the insuring of farmers or producers, while allowing for considerable adjustment once the actual delivery price of the commodity is known. Could futures markets be devised to incorporate such features so that hedgers receive some of what are now speculators' gains? That seems doubtful.

III.5 **Index futures**. Before beginning my conclusion I would like to add some brief comments about stockmarket index futures trading because of its increasing importance in financial markets and because it may help to bring into clearer relief some of the questions I have been raising. In short, trading in this "product" involves trading no shares; it is a matter of buying or selling a futures contract which estimates the future level of the index (actually, its price which is the index multiplied by a specified number - a contract on the Toronto Stock Exchange 300 Index, for example, has been worth 10 times the index, so at 3000 a contract would cost $30,000 - see Hunter, p. 127). It is easy to gamble, or should I say "speculate" on such a contract. Just estimate where the index will be at the "delivery" or pay-up date of the contract - or before, if you wish to trade it before then - and collect if your position is favourable, pay if it is not. So if I go short and the index goes down I can "buy it" at a lower price than I was selling it and collect the difference. Or if I go long and it goes up I can "sell it" and profit. Of course, if I am wrong, I lose. And this is what I understand Nick Leeson of Britain's Baring Bank to have done in the past year. He bet on the Nikkei 225, the Tokyo Index, and lost more than a billion dollars for the bank. He was not hedging; the bank did not have shares that made gains to counterbalance the losses. Clearly such instruments can be used for gambling purposes.

Indeed, someone may use index futures to hedge shares in companies whose value go into making up the index, and so a gain in one balances a loss in the other. The "trick" here is to make certain that there is in fact a close correlation. (Naturally, the more companies in the index whose shares you hold, generally speaking, the more likely it is that you will have a perfect or complete hedge.) One of the advantages of such hedging may be being able to protect your position in the stock market without altering your holdings and affecting its levels. This may be even more true of options on the indexes (see Foley, 225).

But index futures are not only used for gambling or speculating and hedging. They are also arbitraged when players decide that the index futures and the stock market are misaligned. And so they - quite possibly meaning institutional players, fund managers and investment bankers - will buy or sell futures and buy or sell stocks to profit from the discrepancy (see Hardin, pp. 190-93; Stewart, pp. 278-9; Foley, pp. 226-8; Mayer, p. 82ff.). The gap may close, which raises the question of the legitimacy of altering the level of a stock market by these means - whether or not because you think it was already "efficient". On the other hand, if I understand correctly, when there is a general consensus about the direction of the stock market, such trading may cause a chain reaction as some have argued happened in the crash in 1987.[26] Now, how much of a role should be attributed to margin requirements, i.e. the ability to control a large amount of money with a small payment or deposit (and simultaneously expose oneself to a sizeable percentage gain or loss) is something else I do not know. In any event, there are real questions about who affects the value of what and how that are involved in index futures, whether the parties are gambling, hedging or arbitraging. And it seems very unlikely that those gambling are going to affect only themselves or other gamblers, especially when the players are working for banks, pension funds and the like.

One further matter arises - inequality. When speaking of index futures and other "derivatives" I have not looked into, we seem to be very much speaking of the big boys' toys. Smaller players may indeed be able to gamble, hedge, invest and so on, but they are at a disadvantage in fees and margin requirements and access to advice and knowledge, and are, moreover, subject to the effects on trading values influenced by those with more might. This would seem to be more certainly the case with currency exchange rates, as Susan Strange claims (pp. 116, 118).[27]

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[26] For a different perspective see Siklos (p. 213) where he discusses the importance of a decline in interest rates.

[27] Strange raises the very interesting point that the short-termism of financial markets in general stems greatly from the volatility of the world monetary "system". See ch. 4, especially pp. 106ff.; also 147, 163, 173, 185. Perhaps addressing that would have a significant impact upon the use of derivatives and other financial instruments.

IV. **Proposals and conclusion.** The most striking things about capital (or "financial" or "securities") markets are their limited usefulness, the apparently frequent mismatching of rewards and desert and of payment and worth, indiscriminate use of chance and risk-taking, and the questionable value of hedging and insurance mechanisms. These point to a need for control of stock market speculation and other practices which move trading prices, and ultimate gains and losses, away from those suggested by fundamentals - taxation policy may be the best tool to employ as a corrective. They also point to questioning the very existence of futures markets.

The best things that can be said about the primary stock market is that it provides an additional source of corporate financing, and it offers the potential for members of the general public to become involved as part owners of corporations in which they wish to take a personal interest. The former, subject to manipulation and abuse, is salvageable. The latter is very largely unrealized; the main objective actually pursued in the primary - and in the secondary market, is simply to make as much money as possible. And far too often, at the expense of others, and the desert of others. This surely must be significant not only for the goings on within these markets but for society as a whole. This is not just another of those matters that warrants further examination; it is one of the more important ones.

I do not mean to give any impression that I think that there ought not be secondary trading; I think it is quite defensible, but that does not mean that there should be as much of it as possible.

All of this needs to be put into the context of valid concerns about inequality in society.

A number of my concerns, including ones about inequality, are affected by taxation policies. Recall the legitimate reasons for taxing income and wealth: equity in contributing to needed social or collective purposes; payment for services and infrastructure the taxed party uses; spreading the "burden" of humanitarian spending; and penalization of harmful practices of which prohibition would not be feasable or otherwise desirable. Those receiving considerable earnings from dividends should not be exempt or privileged; to the extent that people earning incomes from other pursuits requiring them to contribute more of their abilities and energies are making those contributions in addition to taxes, dividend earners should generally pay a heavier levy. Favoured treatment of dividend income is often defended by reference to the inequity of double taxation - taxing corporations before they pay dividends and then the same corporations in the persons of their owners receiving dividends (see, e.g. Hunter, p. 35). This argument is flawed because consumers, in effect, pay (some of) corporate taxation; corporate taxation is (in part) a "doing business" tax (a payment for public services used); and there is reason to question the identification of corporations with their shareholders (see Otto Eckstein, pp. 72-3).

Capital gains exemptions and privileged rates, and writing off of capital losses are troublesome because of their contributions to increased inequality in society without sufficient reason; they may encourage investment but they can also encourage mere profiting from changing hands of ownership and speculation, and reward bad investment decisions. It is doubtful that society always benefits from people supporting risky investment opportunities, in any event; some ventures should be seen as risky because there are good reasons to question their viability or potential.

Society may have a legitimate interest in seeing people defer some income until retirement so that they can better support themselves then; on the other hand, measures should be put or kept in place to ensure that those who cannot afford to do so are not left too far behind. Retirement plans should not increase inequality (and when they do, we should also ask, who is paying for this, whether directly or indirectly). Whatever plans are used should not prop up investments and agents' incomes that do not deserve to be supported.

The world of finance and taxation is a complicated one; consideration of equitable taxation needs to include examination not only of what should be taxed and how but also how taxation may affect the relative values of common and preferred shares, as well as bonds, for example (see Hunter, 35-37).

Gambling and speculation in stock markets warrant separate consideration. The charges against them include: they "destabilize" stock prices (sometimes); they influence prices unduly; they promote profiting at the expense of others undeservedly; they cause management to work to the quarterly report, and refrain from giving priority to the wisdom of longer-term perspectives; they (sometimes) reward unproductive activity. Frequent trading is a sure sign of speculation (and also pursuit of capital gains and lack of interest in dividend income and the activities of corporations in which shares are held). "Transfer" taxes make sense as a means to decrease the frequency of stock market transactions.[28] They have a number of supporters, including Keynes (p. 160), Stewart, Eric Kierans, Mayer (see Stewart, 297-8), and Hardin (332). One of the biggest difficulties is that states which have such taxes believe their exchanges to be at a disadvantage to countries which do not, and so the movement has been away from, not toward these (e.g. Germany, Japan, Britain, NY State - see Hardin, 332; Stewart, 297). Coordinated action may be the only way to implement them.

Proposals have been made for harder hitting taxes on capital gains from speculation. Of special note is Warren Buffet's proposal for a 100% levy on short term gains from stocks and derivatives, which de George suggests could be softened by granting exemptions (e.g. $1m./year)(de George, p. 213; Stewart, pp. 298-9)[29] Not only could such a tax generate revenue (whatever percentage and precise time frame adopted); it would decrease trading volume and dollars and divert some money, it is hoped, into other more useful pursuits; it would make "greenmail" unprofitable;[30] takeovers for the purpose of quick dismemberment and resale would be discouraged. It would certainly make profiting from insider trading more difficult. It could also address some of the other concerns about speculation, including the one I have about taking advantage of others. That concern could not be addressed by asking people to sell their stock at below current market value if overvalued or to buy at above market price if undervalued; that would simply be an invitation for the other party to take advantage of someone. Participants could be encouraged to wait to buy or sell when stock prices are neither under nor overvalued, but that could still penalize people by reducing their personal liquidity. Best of all would be to take measures, such as proposed by Buffet, which could bring prices closer to true values.

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[28] In a taxation regime that includes taxes on services, there also seems to be little justification for exempting brokerage services (see Stewart on GST, p. 301).

I do not see such a measure as a panacea. Just because undeserved and otherwise objectionable gains from short-term trading would be trimmed or eliminated would not mean that all longer-term trading and profits would be justified. (Buffet himself reportedly stands to gain $400 million US in the takeover of ABC by Disney Corporation; in contrast, the average US income is $25,000 - L. Khalfani, "Buffet wins big", Globe & Mail, 1 August 1995, p. B4.)

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[29] Profits made on stocks sold within six months have been taxed in the U.S. as regular income; profits on stocks sold after six months from purchase have been taxed at a lower rate - with only half of the gains subject to taxation.

[30] Greenmail is the name given to demands by someone threatening to buy a controlling interest in a company unless management agrees to buy back at an increased price the shares the greenmailer has already purchased.

A topic which warrants more attention is the practice of buying on margin - which I would think would be affected by proposals such as Buffet's. And still another is limited liability (see Stewart, pp. 36-7).

I do not have much to say separately about futures and derivative products that I have not already said. A proposal to tax very heavily short-term capital gains could pretty much destroy futures markets at least, and I cannot say that I see that as necessarily a bad thing. The amount of the costs involved and who they are carried by, who profits to what extent and for what, do not strike me as satisfactory. (I might change my mind with more knowledge of the actual workings of these markets although I have doubts that I would.) I say this not only with real reservations about speculation (especially non-aggregative speculation of speculation) - and gambling - but also with real concerns about the "successful" operation of such markets. If futures markets do have a role to play, consideration of a "transfer" or transaction tax would be appropriate.

Stock markets and other capital markets provide an arena in which many questions arise about deserved economic returns and reciprocal or equivalent exchanges. Answers to these question tell us what to think and do about "unearned income" in these markets. First is the question of what people do to deserve what they deserve and how much they, and how much others deserve for the creation of the wealth in question, such as corporate profits and capital appreciation. Then questions follow concerning the steps and chances people take to make more money. Are they trying to gain from buying or selling at other than the value of the good, and violating reciprocity in exchange? Are they distorting the value of other people's wealth? Are they providing insurance in a significant or only incidental way and at what cost to whom? If people do not claim others' desert, do exchange reciprocally, do not distort others' wealth, and do not choose chance to determine allocative outcomes when more rational means which do not exploit the irrationality of other persons are available - especially when they are acting on behalf of others, then they are entitled to whatever luck brings them.

I conclude that resort to gambling and speculating (in most if not in all forms) in these markets is an abdication of our moral responsibility to rationally work out ways of meeting human needs and wants which are both productive and respect the requirements of economic justice. I do not, however, wish to say that we are obligated to use the most effective, efficient or "wealth" maximizing means that respect these requirements because I have not yet thought that through. (I am convinced, though, that maximizing capital and monetary wealth is not an obligation.) I will say that these markets are not very impressive in the results they produce with the costs that accompany them. Society is imprudent, at the least, for diverting so much wealth, human energy and talent into their orbit.

Afterword

An examination of unearned income leads to investigation of three major related topics: earned or deserved income, equality and chance. A study of these takes us into an exploration of the boundaries of the self as well as components of economic desert such as effort and usefulness; the kinds of chance: all and not-all or one-party luck, natural and artificial chance; and the extent to which people ought to be treated equally (and maybe even made equal). These fit into an even larger puzzle with a host of interwoven pieces. These include the role of government in economic affairs, the place of needs and other community entitlements, the appropriation of natural resources, the purposes and justifications of the impersonal market - and of taxation, gambling, speculating, insurance, and a host of philosophical controversies such as the nature of morality, consequentialism, free will, responsibility and more.

Obviously, I cannot claim to have presented the last word on these matters. I have presented arguments intended to be persuasive. I believe that I am more successful in dealing with some issues, less successful in dealing with others. I am certain that I have made many errors and even when right, have not always provided the best arguments that could be presented. Whatever the reader may make of the positions I take, I would hope that he has come to a greater appreciation of the nature of the challenge in dealing with desert, equality and chance in economic justice, and with various forms of unearned income in which these meet.

I do not wish to suggest, on the other hand, that these matters are so complex, and our conclusions necessarily so tentative that we should delay acting on our conclusions about them. One of the points about which I am most convinced is that we are affecting ourselves and others both by what we decide to do and refrain from deciding to do about the issues. Inaction is not an option. Consequently, we need to act upon the best conclusions that we are able to reach.

I conclude that pursuit of economic justice as the proportionate rewarding of desert and reciprocity in exchange is one, but not the only element of an economically just community. Organized communities have responsibilities in meeting needs, including enabling people to be deserving. Containment of inequality, even from deserved wealth, is required. Good luck in "natural lotteries", not just of talents, but also circumstances and outcomes, does not disentitle, although it may obligate. What is or appears to be bad luck ought to call forth explorations to determine whether anyone is responsible for creating misfortunes of others, assumption of responsibility by those who are responsible for at least minimum levels of welfare of the people in question when the unlucky are not responsible for their fate, and humanitarian measures by those well situated to assist. Recourse to chosen mechanisms of chance should be only used with full awareness of the possible outcomes of our actions and, indeed, of our duty to ensure that we fulfill our responsibilities and do not harm others. Exploitation of others' irrationality, denial of their desert, and violation of reciprocity in exchange are both harms to them and wrongful taking of possession on our part.

Examination of additional issues which incorporate factors of desert, chance and the unearned would do two things in the context of this discussion. It would help to correct and refine the conclusions reached here, and it would help us to better decide what we ought to do about them. Some of these issues include the allocation of health care, the methods of providing housing, and the means of operating an international currency system. As with inheritance and various (other) capital markets, the effects from the practices employed are being produced whether or not we have clear moral thinking to apply to them and guide or control them. It is better to have such thinking in place because people matter. People are valuable in large part because of what they do to provide for themselves and contribute to others, what they use and why, and their ability to respect rational moral requirements, including those of economic justice.

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